

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----X
HEINS RODRIGUEZ,

5 PLAINTIFF,

6 -against-

Case No.:
16-CV-5861
(NG) (RER)

8 CITY OF NEW YORK; Police Officer ZHENG
9 ZUOPENG, Shield No. 25461; Police Officer
10 ALEN CHEN, SHIELD NO. 28461; Sergeant
11 MATTHEW S. STARRANTINO; and JOHN and JANE
12 DOE 1 through 10, individually and in their
official capacities (the names John and
Jane Doe being fictitious, as the true
names are presently unknown),

13 DEFENDANTS.

14 -----X

15 DATE: July 25, 2018

16 TIME: 11:24 A.M.

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19 (DEPOSITION OF ZUOPENG ZHENG)
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DATE: July 25, 2018

TIME: 11:24 A.M.

VIDEOTAPED DEPOSITION of the
Defendant, ZUOPENG ZHENG b/s/h/a ZHENG
ZUOPENG, taken by the Plaintiff, pursuant
to a Court Order and to the Federal Rules
of Civil Procedure, held at the offices of
Elefterakis, Elefterakis, & Panek, 80 Pine
Street, New York, New York 10005, before
Dione Woods, a Notary Public of the State
of New York.

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A P P E A R A N C E S:

ELEFTERAKIS, ELEFTERAKIS & PANEK
Attorneys for the Plaintiff
HEINS RODRIGUEZ
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New York, New York 10005
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Attorneys for the Defendants
CITY OF NEW YORK; Police Officer ZHENG
ZUOPENG, Shield No. 25461; Police Officer
ALEN CHEN, SHIELD NO. 28461; Sergeant
MATTHEW S. STARRANTINO; and JOHN and JANE
DOE 1 through 10, individually and in
their official capacities (the names John
and Jane Doe being fictitious, as the
true names are presently unknown)
100 Church Street
New York, New York 10007
BY: ZACHARY BERGMAN, ESQ.

ALSO PRESENT: Kevin Kelly
and Robert Hogan,
Videographer

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2 F E D E R A L S T I P U L A T I O N S

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5 IT IS HEREBY STIPULATED AND AGREED by and
6 between the counsel for the respective
7 parties herein that the sealing, filing and
8 certification of the within deposition be
9 waived; that the original of the deposition
10 may be signed and sworn to by the witness
11 before anyone authorized to administer an
12 oath, with the same effect as if signed
13 before a Judge of the Court; that an
14 unsigned copy of the deposition may be used
15 with the same force and effect as if signed
16 by the witness, 30 days after service of
17 the original & 1 copy of same upon counsel
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that
21 all objections except as to form, are
22 reserved to the time of trial.

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25

1 Z. ZHENG

2 THE VIDEOGRAPHER: We are now
3 on the record. The time is 11:24
4 A.M. on July 25, 2018. My name is
5 Robert Hogan, legal videographer with
6 Diamond Reporting and Legal Video
7 based in Brooklyn, New York. This is
8 a deposition of Zuopeng Zheng taken
9 on behalf of Plaintiff.

10 This deposition is being held at the
11 offices Elefterakis, Elefterakis &
12 Panek, 80 Pine Street, New York, New
13 York in the United States District
14 Court, Eastern District of New York.
15 The caption of the case is Heins
16 Rodriguez, Plaintiff against City of
17 New York et al., Defendants. Docket
18 number 16CV5861. Will Counsel now
19 please identify themselves, their
20 firms and the parties they represent.
21 Baree Fett, from Elektrakis,
22 Elektrakis & Panek for the Plaintiff,
23 Heins Rodriguez and Zachary Bergman
24 from Corporation Counsel, New York
25 City Law Department, also present

1 Z. ZHENG

2 Kevin Kelly from the New York City
3 Law Department.

4 The court reporter is Dione
5 Woods with Diamond Reporting. Ms.
6 Woods, please swear in the witness.

7 Z U O P E N G Z H E N G, called as a
8 witness, having been first duly sworn by a
9 Notary Public of the State of New York, was
10 examined and testified as follows:

11 EXAMINATION BY

12 MR. FETT:

13 Q. Please state your name for the
14 record.

15 A. Zuopeng Zheng.

16 Q. What is your business address?

17 A. 1 Police Plaza, New York, New
18 York.

19 Q. Good morning, Officer Zheng.
20 My name is Baree Fett and I represent the
21 Plaintiff, Heins Rodriguez.

22 I'm going to be asking you a
23 series of questions today. Before I start
24 I'm going to go over some ground rules just
25 so that you understand how the deposition

1 Z. ZHENG

2 works, okay?

3 A. Okay.

4 Q. First, because there is a court
5 reporter taking down my questions and your
6 answers I just ask that you wait for me to
7 complete the question before you answer
8 even if you know the answer, okay?

9 A. Yes.

10 Q. Okay. And my next point is
11 that you answer all my questions verbally
12 so that the court reporter can take it
13 down, if you nod or say ah-huh she can't
14 take that down, okay?

15 A. Yes.

16 Q. If you don't understand my
17 question or can't hear my question, will
18 you let me know?

19 A. Yes.

20 Q. Okay. And if you don't tell me
21 that I'm going to assume you understand the
22 question; is that fair?

23 A. Yes.

24 Q. If at any point you want to
25 take a break you're absolutely welcome to

1 Z. ZHENG

2 do that, to speak to your attorneys or use
3 the bathroom, just let me know, okay?

4 A. Yes.

5 Q. If a question is pending I will
6 ask that you first answer the question
7 before we take a break, okay?

8 A. Yes.

9 Q. I want you to answer the
10 questions to the best of your ability. I
11 don't want you to guess, okay?

12 A. Okay.

13 Q. It's okay to say I don't know.

14 A. Yes.

15 Q. Once the deposition is over a
16 transcript will be generated and you will
17 have the opportunity to review the
18 transcript and make any changes or
19 corrections, okay?

20 A. Okay.

21 Q. Understand that when this case
22 goes to trial I will be able to comment on
23 any questions or changes that you made to
24 the transcript, okay?

25 A. Okay.

1 Z. ZHENG

2 Q. Are you on any medication today
3 that will affect your memory?

4 A. No.

5 Q. In the last 24 hours did you
6 have any alcohol?

7 A. No.

8 Q. In the last 24 hours did you
9 have any alcohol?

10 A. No.

11 Q. In the last 24 hours did you
12 use any marijuana?

13 A. No.

14 Q. In the last 24 hours did you
15 take any illegal drugs?

16 A. No.

17 Q. How much sleep did you get last
18 night?

19 A. Five, six hours.

20 Q. When did you finish your last
21 shift at work?

22 A. 1723 hours yesterday.

23 Q. Can you tell me what 1723 is in
24 non-military?

25 A. 5:23 P.M.

1 Z. ZHENG

2 Q. What did you do after work?

3 A. Went home.

4 Q. Are you aware that you've taken
5 an oath to tell the truth today?

6 A. Yes.

7 Q. The oath that you've taken
8 today is exactly the same oath that you
9 would take in a courtroom, do you
10 understand that?

11 A. Yes.

12 Q. Is there any reason why you
13 wouldn't be able to tell the truth today?

14 A. No.

15 Q. What is your full name?

16 A. First name Z-U-O-P-E-N-G, last
17 name Z-H-E-N-G.

18 Q. Do you have a middle name?

19 A. No.

20 Q. Your last name am I correct is
21 pronounced Zheng?

22 A. Yes.

23 Q. What's your shield number?

24 A. 25461.

25 Q. Your tax ID?

1 Z. ZHENG

2 A. 943985.

3 Q. What is your current rank?

4 A. Police officer.

5 Q. And your current command?

6 A. 110 Precinct.

7 Q. What's your current assignment?

8 A. Highway safety officer.

9 Q. Do you wear glasses or contact
10 lenses?

11 A. Contact lenses.

12 Q. What's your prescription?

13 A. For what?

14 Q. Your contact lenses.

15 A. Oh, um -- I don't know.

16 Q. Do you know whether you're
17 nearsighted or farsighted or why you need
18 the contact lens?

19 A. Nearsighted.

20 Q. Nearsighted. So that means
21 that you have difficulty seeing from far
22 away; is that right?

23 A. I'm not really familiar with
24 the medical terms. I think so.

25 Q. Do you wear your contacts all

1 Z. ZHENG

2 day typically?

3 A. Yes.

4 Q. So it's not just for reading or
5 driving?

6 A. It's all day.

7 Q. Okay. And in 2015 were you
8 also prescribed contact lenses?

9 A. Yes.

10 Q. Okay. Was it for the same
11 condition that you have today?

12 A. Yes.

13 Q. Okay. And how long have you
14 been -- how long have you needed a
15 prescription for contact lenses or
16 eyeglasses?

17 A. I don't remember. A long time
18 ago.

19 Q. Like more than 10 years?

20 A. Yes.

21 Q. Have you ever given testimony
22 under oath before?

23 A. Yes.

24 Q. Um, and when I say testimony
25 under oath that could be in a hearing,

1 Z. ZHENG

2 criminal court, civil court, a deposition
3 like this I'm including all of that in the
4 question, okay?

5 A. Yes.

6 Q. Approximately, how many times
7 do you think you've given testimony under
8 oath before?

9 A. I don't have exact numbers.

10 Q. Would it be under 10?

11 A. Yes.

12 Q. More than 20?

13 A. Yes.

14 Q. More than 30?

15 A. Yes.

16 Q. Okay. More than 40?

17 A. Not sure.

18 Q. Have you ever given testimony
19 at trial in a Civil Court?

20 A. Not at trial, no.

21 Q. Okay. And so when I'm saying
22 civil court I mean suing for money,
23 something like that?

24 A. Yes.

25 Q. So, as far you know you haven't

1 Z. ZHENG

2 done that?

3 A. Not at the trial, no.

4 Q. And so I think what I'm -- what
5 I think you're saying, have you testified
6 under oath in a deposition before?

7 A. Yes.

8 Q. Okay. Um, on how many
9 occasions?

10 A. One.

11 Q. Okay. So aside from this one
12 one other time?

13 A. One more.

14 Q. What were the circumstances?

15 A. Um, it was an RMP accident
16 involve a pedestrian.

17 Q. Okay. And um, was that a
18 lawsuit that was pending?

19 A. Yes.

20 Q. Okay. And were you testifying
21 as a witness?

22 A. Sorry what does -- sorry
23 pending.

24 MR. BERGMAN: Yeah, I'm going
25 to object to the last question but

1 Z. ZHENG

2 you can answer.

3 MR. FETT: That's okay.

4 Q. So when you were testifying at
5 a deposition was there a lawsuit that you
6 were testifying about?

7 A. Yes.

8 Q. Okay and were you testifying,
9 as far as you know, were you a witness,
10 were you a Defendant or something else?

11 A. Defendant.

12 Q. Um, and, what was the name of
13 the Plaintiff in the case, the person
14 suing?

15 A. I don't remember.

16 Q. Okay. And what was that person
17 claiming in that lawsuit?

18 A. That I struck her with a
19 vehicle.

20 Q. Okay. Do you know
21 approximately when that person claimed you
22 had struck him or her with a vehicle?

23 MR. BERGMAN: Objection. You
24 can answer.

25 A. I don't remember exactly when.

1 Z. ZHENG

2 Q. Okay. Was it in 2015?

3 MR. BERGMAN: Same objection.

4 You can answer.

5 A. The accident happened in 2014.

6 Q. Okay. 2014. Do you remember
7 the month in 2014?

8 A. No.

9 Q. And, so, can you describe the
10 circumstances of what happened in that
11 accident?

12 A. I was doing an intake crime
13 unit at the time which was a plainclothes
14 unit --

15 Q. Ah-huh.

16 A. -- I was driving an unmarked
17 vehicle and, um, in the middle of a block
18 one of my sergeant's was sitting in the
19 back seat telling me there was a person in
20 the backyard which was -- we were looking
21 for a burglary at the time.

22 I backup my vehicle slowly,
23 that person came out in between cars in the
24 middle of the street so my back of my car
25 tapped his leg and as soon as we stopped

1 Z. ZHENG

2 the car we asked him if he was all right,
3 he said "I'm fine" and he was about to walk
4 away. We call him back. We took the
5 accident report.

6 Q. You. You wrote an accident
7 report?

8 A. We wrote an accident.

9 Q. Okay. And why did you do that?

10 A. It's just the procedure. We
11 have to do it if someone got -- even though
12 there was no injury at the time we still
13 have to require to do something for the
14 incident.

15 Q. Okay. And, um, was an
16 ambulance called to the scene?

17 A. No.

18 Q. Why not?

19 A. He didn't require an ambulance.

20 Q. How do you know he didn't
21 require an ambulance?

22 A. We was going to walk away
23 before we even started a report.

24 Q. Where did this accident happen?

25 A. Somewhere in my precinct. I --

1 Z. ZHENG

2 I don't remember the exact location.

3 Q. You mean at the 110 --

4 A. Correct. 110 Precinct.

5 Q. What was the name of your, I
6 believe you said your sergeant in the back
7 seat?

8 A. For that incident?

9 Q. Yes.

10 A. Yes, um Sergeant Labner
11 (phonetic).

12 Q. Was any other officer in the
13 vehicle with you?

14 A. Yes.

15 Q. Who were the other officers in
16 the vehicle with you?

17 A. Officer Jones.

18 Q. Is Sergeant Labner a male or a
19 female?

20 A. Male.

21 Q. And Officer Jones is a male or
22 female?

23 A. Male.

24 Q. Do you know Officer Jones'
25 first name?

1 Z. ZHENG

2 A. Anthony.

3 Q. Okay. And is Officer Jones
4 still at the 110?

5 A. Yes.

6 Q. Is Sergeant Labner still at the
7 110?

8 A. Yes.

9 Q. Um, did this happen, was it
10 daylight, nighttime, can you describe what
11 the weather conditions were?

12 A. Daytime. Clear weather.

13 Q. And um, did you ever see the
14 individual behind you, the pedestrian?

15 MR. BERGMAN: Objection to
16 form. You can answer.

17 A. Not until I hit the guy, no.

18 Q. Let me. Let me. That's not a
19 good question. At the time that you're
20 backing up your vehicle describe for me
21 what you did in terms of driving procedure;
22 did you look in your rearview mirror or did
23 you look behind you, how did you back up?

24 A. Look at the top mirror and the
25 side mirror.

1 Z. ZHENG

2 Q. Which one did you look in
3 first?

4 A. Left hand side first, middle,
5 then right.

6 Q. What did you see when you
7 looked in these mirrors?

8 A. Nothing.

9 Q. Okay. And how soon after you
10 looked in the mirrors did you proceed to
11 back up?

12 A. I don't remember exactly time.

13 Q. Okay. And so, but it's your
14 testimony that you when you looked in the
15 mirrors you didn't see anybody?

16 A. No.

17 Q. Do you know the status of the
18 lawsuit now; is it settled, is it ongoing,
19 something else?

20 A. No.

21 Q. You don't know the status?

22 A. No.

23 Q. Is that person now claiming
24 that he was injured?

25 MR. BERGMAN: Objection. You

1 Z. ZHENG

2 can answer.

3 A. Yes.

4 Q. Okay. And um -- and this is
5 only if you know. What is he claiming his
6 injuries are?

7 A. I have no idea.

8 Q. Why do you laugh? Do you think
9 that -- what do you think about that?

10 A. There was no injury at the
11 scene so I have no idea what the claim will
12 be.

13 Q. Okay. Um, what did you do
14 today to prepare for this deposition?

15 MR. BERGMAN: Objection to form
16 and also any conversations you had
17 with Counsel do not discuss.

18 A. Just meet with them.

19 Q. Okay. Let me clarify the
20 question. Did you meet today with your
21 attorneys to prepare for the deposition?

22 A. Yes.

23 Q. Okay. And, how long did you
24 meet with your attorney today?

25 A. Today?

1 Z. ZHENG

2 Q. Yes.

3 A. From 8:30 to -- sorry, from
4 9:00 to now when we started.

5 Q. I guess what I'm asking is
6 before you got here today without telling
7 any conversation did you meet with your
8 attorneys today to prepare for the
9 deposition?

10 A. Yes.

11 Q. Okay. And, um, who was in the
12 room when you met with your attorneys?

13 A. Um, Zach and um, Kevin.

14 MR. BERGMAN: By counsel that's
15 Zach Bergman and Kevin Kelly from
16 Corporation Counsel.

17 Q. Was anyone else in the room?

18 A. No.

19 Q. Um, and, did you review any
20 documents?

21 A. Not today, no.

22 Q. Did you review any video?

23 A. No.

24 Q. Aside from today have you met
25 with your attorneys at any other time to

1 Z. ZHENG

2 prepare for the deposition?

3 A. Yes.

4 Q. Okay. When?

5 A. A few times. Just like last
6 week.

7 Q. Okay. How many times last week
8 did you meet with them?

9 A. One time last week and I think
10 one time the thing week before.

11 Q. Okay. And so let's start with
12 the first one, the one a few weeks ago.
13 Who did you meet with?

14 A. Zach and Kelly.

15 Q. Okay. Um, and was anyone else
16 in the room?

17 A. No.

18 Q. Did you review any documents at
19 that time?

20 A. Yes.

21 Q. Which documents did you review?

22 MR. BERGMAN: Objection. Only
23 answer things that refreshed your
24 memory.

25 A. My paperwork and the radio. I

1 Z. ZHENG

2 saw the CCRB.

3 Q. Which of your paperwork? What
4 of your paperwork did you review?

5 MR. BERGMAN: Same objection.

6 Answer things that refresh you
7 memory.

8 A. My arrest report.

9 Q. Okay. Um, I'm going to name
10 some things and just let me know if you
11 looked at that. How about your memo book
12 entry?

13 A. Yes.

14 Q. Um, and the arrest report?

15 A. Yes.

16 Q. Um, how about -- is there
17 anything else you can think of that you
18 reviewed?

19 MR. BERGMAN: Again. Same
20 objection. Things as far as
21 refreshed your memory.

22 A. I don't remember now. Just all
23 the paperwork I have.

24 Q. Which video did you review?
25 You said the video from CCRB. Which video

1 Z. ZHENG

2 was that?

3 A. The video when he fell off the
4 bike.

5 Q. Okay.

6 A. When we um, took the arrest.

7 Q. Any other video?

8 A. No.

9 Q. So just one video?

10 A. Right.

11 Q. When you met with your office
12 --excuse me. When you met with you
13 attorneys last week how long did you meet
14 with them?

15 A. Few hours.

16 MR. BERGMAN: Can I take a few
17 seconds break. I want to confer with
18 my client about something.

19 THE VIDEOGRAPHER: It is 11:40
20 A.M., going off record.

21 (Whereupon, an off-the-record
22 discussion was held.)

23 THE VIDEOGRAPHER: Back on the
24 record, 11:41 A.M.

25 MR. BERGMAN: By Counsel, I

1 Z. ZHENG

2 just want to make a quick correction
3 as to what you said previously.

4 A. Yeah, when you asked me like
5 how many videos I saw total from the three
6 times we met it was two videos. First day
7 one, then second day I saw the second
8 video.

9 Q. Thank you. I appreciate that.
10 So just going back to the second time you
11 met with your attorneys, do you remember
12 what paperwork you reviewed that day?

13 A. Same thing, arrest paperwork.

14 Q. Okay. And then in terms of a
15 video, which video did you review that day?

16 A. First one was the um, the one
17 with the arrest proc -- I have one he fell
18 off the bike when everything happened --

19 Q. Okay.

20 A. -- at the scene and the second
21 video was -- someone was holding a back.

22 Q. Okay.

23 A. -- at the scene after he was in
24 the RMP --

25 Q. Okay.

1 Z. ZHENG

2 A. --in the car.

3 Q. Let's talk about the first
4 video. The one of the actual accident.
5 Had you seen -- aside from seeing it CCRB
6 and your attorney had you seen that video
7 at any other point?

8 A. I don't remember.

9 Q. Okay. And then how about the
10 video where you said someone has a bag.
11 Had you seen that video before meeting with
12 your attorney?

13 A. No.

14 Q. We'll go into that video more
15 but I just wanted to know. The person that
16 was holding the bag, was that you?

17 A. I'm not even sure.

18 Q. Okay. You're not sure because
19 why?

20 A. I don't remember it.

21 Q. Okay.

22 A. I don't remember that event.

23 Q. Okay. Um, aside from the
24 lawsuit where you had struck someone with a
25 vehicle had you been sued any other time as

1 Z. ZHENG

2 a police officer?

3 A. No.

4 Q. Aside from striking the
5 individual with your car have you been in
6 any other car accidents?

7 A. Yes.

8 Q. Okay. How many car accidents
9 have you been in?

10 A. I don't know exactly how many.

11 Q. Is it more than two?

12 A. No.

13 Q. Okay. So you think it's two
14 car accidents?

15 A. I think, yeah.

16 Q. Okay. Um, and so um, and can
17 you approximate, I don't need exact numbers
18 or dates?

19 A. Right.

20 Q. But, approximately, when was
21 the first car accident that you were in?

22 A. Oh, um, I don't remember
23 exactly the year. I know it happened in
24 Queens.

25 Q. Okay. Ah, was it on duty or

1 Z. ZHENG

2 off duty?

3 A. Off duty.

4 Q. Okay. But you were a police
5 officer --

6 A. I wasn't at the time.

7 Q. It was before you became a
8 police officer?

9 A. Yes.

10 Q. And so, and um, what year did
11 you become a police officer?

12 A. 2007.

13 Q. So, do you remember,
14 approximately, how soon before you became a
15 police officer you had the car accident?

16 A. Five or six years before that.

17 Q. So describe for me what
18 happened in the car accident?

19 A. I was driving down the street
20 an 82 years old lady ran a stop sign and
21 T-boned me.

22 Q. So, did police arrive at the
23 scene?

24 A. Yes.

25 Q. Was a police report written?

1 Z. ZHENG

2 A. Yes.

3 Q. So, do you know whether or not
4 the older woman was found to be at fault by
5 the police officer?

6 A. I don't --

7 MR. BERGMAN: Objection. You
8 can answer.

9 A. I don't know.

10 Q. Do you know whether or not she
11 was ticketed?

12 A. No.

13 Q. You don't know or she wasn't?

14 A. I don't know. I'm sorry. I
15 don't know.

16 Q. Were you ticketed?

17 A. No.

18 Q. Were you injured?

19 A. Yes.

20 Q. What were your injuries?

21 MR. BERGMAN: Objection. You
22 can answer but I would ask that --

23 A. I don't remember. I went to a
24 hospital.

25 Q. Did you break any bones?

1 Z. ZHENG

2 A. No.

3 Q. Um, were you admitted to the
4 hospital?

5 A. No.

6 Q. Do you know whether or not the
7 elderly woman was injured?

8 A. She also went to the hospital.
9 I'm not sure if she was injured or not.

10 Q. Okay. Was your car damaged?

11 A. Yes.

12 Q. Um, was there any litigation
13 that resulted in this accident?

14 MR. BERGMAN: Objection. You
15 can answer.

16 A. I don't know.

17 Q. Did you sue her?

18 A. No.

19 Q. Okay. Did she sue you?

20 A. No.

21 Q. Um, did you make a claim with
22 your insurance to have your car fixed?

23 A. Yes.

24 Q. You don't know whether or not
25 her insurance paid for your car to be

1 Z. ZHENG

2 fixed?

3 A. The car at the time was under
4 my mom's name so I had nothing to do with
5 it actually.

6 Q. Um, were you drinking at the
7 time of accident?

8 A. No.

9 Q. Were you under the influence of
10 any drugs at the time of the accident?

11 A. No.

12 Q. Okay. Was the -- was your car
13 totalled after the accident?

14 A. Yes.

15 Q. Okay. Do you know how fast she
16 was traveling?

17 A. No.

18 Q. Okay. But you were stopped?

19 A. I was going straight when she
20 ran the stop sign.

21 Q. Okay. How do you know she ran
22 the stop sign?

23 A. I don't have a stop sign on me
24 and she had a sign --

25 Q. Okay.

1 Z. ZHENG

2 A. -- for her.

3 Q. Were you able to see her
4 running a stop sign?

5 A. All I know is one thing she hit
6 me and that was it.

7 Q. And um, you might have said
8 this already, was this in Queens?

9 A. Queens.

10 Q. And then is the second accident
11 that you're talking about is that the
12 accident with the pedestrian while you were
13 on duty or is that something else?

14 MR. BERGMAN: Objection to form
15 but you can answer.

16 A. That's the accident I can
17 remember off duty.

18 Q. Okay.

19 A. The one with the old lady.

20 Q. Okay. Have you been in any
21 accident on duty aside from the incident
22 with the pedestrian?

23 A. No.

24 Q. Okay. Have you ever received
25 any speeding tickets while on duty?

1 Z. ZHENG

2 A. No.

3 Q. Have you ever gotten a speeding
4 ticket when you're not on duty?

5 A. Yes.

6 Q. Okay. Approximately, how many?

7 A. One.

8 Q. And, approximately, what year?

9 A. Ninety-eight.

10 Q. Okay. What's your highest
11 level of education?

12 A. Associate's degree.

13 Q. Where did you get that?

14 A. I'm sorry. Nassau Community
15 College.

16 Q. Okay. Did you have a major?

17 A. Criminal justice.

18 Q. And, what year did you get your
19 degree?

20 A. 2006, 2007.

21 Q. Have you been in any other
22 training programs or received any other
23 degrees or certificates?

24 A. Different ones from the
25 Department. I'm not sure exactly what they

1 Z. ZHENG

2 are.

3 Q. Okay. What's your date of
4 appointment?

5 A. 01/10/07.

6 Q. And um, were you accepted into
7 NYPD the first time you applied?

8 A. Yes.

9 Q. Did you apply to any other law
10 enforcement units um, aside from NYPD?

11 A. Um, when?

12 Q. Any time?

13 A. Port Authority.

14 Q. Port Authority?

15 A. Yes.

16 Q. Um, and what year did you apply
17 to Port Authority?

18 A. I don't remember.

19 Q. Would it have been around the
20 same time you applied to NYPD?

21 A. After.

22 Q. Okay. And, were you accepted?

23 A. Yes.

24 Q. Okay. And, but it sounds like
25 you decided to stay at NYPD?

1 Z. ZHENG

2 A. Yes.

3 Q. Why?

4 A. It was so many years after I
5 got -- I'm on this job already. So it
6 didn't work for me anymore.

7 Q. Um, after graduating from the
8 police academy what was your first
9 assignment?

10 A. Operation impact, 73rd
11 Precinct.

12 Q. Okay. How long were you at the
13 73rd?

14 A. One year.

15 Q. Were you in impact the entire
16 time?

17 A. Yes.

18 Q. Where were you transferred
19 after that?

20 A. Ah, 110.

21 Q. Did you ask to be transferred,
22 were you told you were being transferred or
23 something else?

24 A. No, I just got transferred.

25 Q. Okay. While you were at the

1 Z. ZHENG

2 73rd were you ever disciplined?

3 A. No.

4 Q. Did you ever lose any time or
5 any hours at the 73rd?

6 A. No.

7 Q. Approximately, what year did
8 you go to the 110?

9 A. 2008.

10 Q. Okay. And, have you been at
11 the 110 from 2008 to present?

12 A. Yes.

13 Q. So you never been in any other
14 precinct?

15 MR. BERGMAN: Objection form.

16 You can answer.

17 A. No.

18 Q. What was your first assignment
19 at the 110?

20 A. Condition unit.

21 Q. And were you assigned to a
22 vehicle or were you on foot or something
23 else?

24 A. Sometimes on foot, sometime in
25 a car.

1 Z. ZHENG

2 Q. Okay. How long were you in the
3 conditions unit for?

4 A. Three or four years.

5 Q. Okay. Um, and where did you go
6 after conditions?

7 A. Day tour patrol.

8 Q. So is it fair to say in
9 approximately 2012 you were in day tour
10 patrol?

11 A. 2011.

12 Q. Okay. And, what was your
13 assignment or what were your
14 responsibilities in day tour patrol?

15 A. Answer radio runs.

16 Q. Okay. And, were you in an RMP?

17 A. Yes.

18 Q. Okay. In uniform?

19 A. Yes.

20 Q. Did you have a partner?

21 A. Yes.

22 Q. Okay. Um, Who was your partner
23 in 2011?

24 A. I had three different partners
25 at the time I think.

1 Z. ZHENG

2 Q. Okay. So then a rotating --

3 A. Right.

4 Q. -- system?

5 A. Correct.

6 Q. And, um, how long were you in
7 the day tour patrol?

8 A. Approximately, a year.

9 Q. Okay. And so then at some
10 point I guess you moved onto a different
11 unit; is that right?

12 A. Yes.

13 Q. Okay. Where did you go after
14 the day tour?

15 A. Um, traffic safety.

16 Q. Would that be around 2012?

17 A. Um, may 2012.

18 Q. Why were you transferred, do
19 you know?

20 A. Um, we just a different
21 assignment.

22 Q. Did you see the change to
23 traffic safety as um, as like a promotion,
24 did you see it as a demotion or something
25 else?

1 Z. ZHENG

2 A. Just different job.

3 Q. So just a different assignment?

4 A. Yes.

5 Q. Okay. How did you like traffic
6 safety?

7 A. I like it.

8 Q. You like it?

9 A. Yeah.

10 Q. Okay. And who was your partner
11 in traffic safety?

12 A. We don't have part -- I'm
13 sorry.

14 MR. BERGMAN: Objection. You
15 can answer.

16 A. We don't have partners.

17 Q. Okay. Um, and so, are you in
18 an RMP?

19 MR. BERGMAN: Objection. You
20 can answer.

21 A. Yes.

22 Q. Describe for me what you do in
23 traffic safety?

24 A. Um, basically writing down
25 moving violations for vehicles, bicycles,

1 Z. ZHENG

2 motorcycles and people who has suspended
3 license or drunk driving.

4 Q. Okay. I think you said in that
5 unit you don't have partners; is that
6 right?

7 A. Most of the time no partners.

8 Q. Okay. Does that mean you're
9 alone or you're just assigned with someone
10 different every time?

11 A. No most of the time I'm by
12 myself.

13 Q. Okay. And who was your
14 supervisor in traffic safety in 2012?

15 A. I don't remember.

16 Q. How long were you in traffic
17 safety?

18 A. Right now since 2012.

19 Q. Okay. So, that's your current
20 assignment?

21 A. Correct.

22 Q. Who's your supervisor now?

23 A. Sergeant Chaffer.

24 Q. Sergeant Chaffer?

25 A. Yes. C-H-A-F-F-E-R.

1 Z. ZHENG

2 Q. Is that a male or female?

3 A. Male.

4 Q. How long has he been your
5 supervisor?

6 A. Few years. I don't remember
7 exactly how long.

8 Q. Okay. What's his first name?

9 A. Eric.

10 Q. Okay. Have you ever been
11 arrested?

12 A. No.

13 Q. Have you ever been placed on
14 suspension?

15 A. No.

16 Q. Have you ever been disciplined
17 for any reason while in NYPD?

18 A. Yes.

19 Q. On how many occasions?

20 A. From what I remember, one.

21 Q. What year was that?

22 A. I don't remember exactly.
23 2009, approximately.

24 Q. What were you disciplined for?

25 A. I was eating dinner on my post

1 Z. ZHENG

2 at one -- one -- um, headquarter police
3 security. Security post.

4 Q. Okay. So I just want to make
5 sure I heard you. So you were eating
6 dinner on your post?

7 A. Correct.

8 Q. Okay. Did that mean you were
9 eating while you were on duty?

10 A. Yes.

11 Q. What was your post?

12 A. It's um, 1 Police Plaza had
13 that little booth.

14 Q. Okay?

15 A. You have to put a button for
16 people to go in and go out with a barrier.

17 Q. Okay.

18 A. I'm one of the person in that
19 booth.

20 Q. Okay. What was the discipline?

21 A. I know they took four hours
22 from me. I don't remember exactly what was
23 the discipline for. Eating on post or
24 something like that.

25 Q. Okay. And four hours were

1 Z. ZHENG

2 taken from you?

3 A. Four hours.

4 Q. Ah, was there any other
5 discipline in connection with that
6 incident?

7 A. No.

8 Q. Okay. No other discipline
9 aside from the 2009 incident?

10 A. Not that I remember.

11 Q. Were you ever disciplined in
12 any way for the incident when you struck
13 the pedestrian with your vehicle?

14 A. No.

15 Q. Were you ever interviewed in
16 connection with that incident?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. I'm sorry. Can you clarify by
20 who.

21 Q. Sure. By anyone within NYPD
22 were you interviewed by anyone in
23 connection with that incident?

24 A. No.

25 Q. Um, so IAB didn't interview you

1 Z. ZHENG

2 in connection with the incident with the
3 pedestrian?

4 A. No.

5 Q. How about have any of your
6 supervisors within the 110. Did any of
7 them interview you about what had happened?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. No.

11 Q. Okay. As far as you know was
12 there any investigation within NYPD in
13 connection with that incident?

14 A. No.

15 Q. I'm sorry. You don't know or
16 there wasn't?

17 A. Sorry. I don't know.

18 Q. Aside from the four hours have
19 you ever lost any other time?

20 A. Not that I remember, no.

21 Q. Have you ever been GO-15'd?

22 A. Yes.

23 Q. On how many occasions?

24 A. Approximately, two. That I
25 remember for sure is one.

1 Z. ZHENG

2 Q. Okay. Um, and so the one that
3 you remember for sure, approximately, what
4 year was that?

5 A. '08 or '09.

6 Q. Were you a subject or a
7 witness?

8 A. Witness.

9 Q. What was being investigated?

10 A. School safety agent was
11 shopping lifting in Target and, um, as a
12 security hauling job I was the one that
13 answered the job so I was the first one on
14 the scene. So I was the one that become
15 the arresting officer.

16 Q. Okay. Um, and then you said
17 you think you might have been interviewed
18 another time. Do you have any specific
19 recollection about it?

20 A. Yes, one time -- one time there
21 was the, um, a female police officer in my
22 precinct allegedly showed a gun to a pass
23 -- like a person who drive by --

24 Q. Okay.

25 A. -- and that person actually

1 Z. ZHENG

2 approached me so I had to go back to the
3 precinct and tell my supervisor about it
4 and they did a GO on me for that thing.

5 Q. Okay. So it sounds like you
6 were a witness?

7 A. I did, yeah.

8 Q. Any other times that you think
9 you were interviewed?

10 A. I don't remember anything else.

11 Q. Okay. Do you think you're a
12 good driver?

13 A. Yes.

14 Q. Why do you think that?

15 MR. BERGMAN: Objection. You
16 can answer.

17 A. Fairly I never really have a --
18 I just -- you know, I think I'm a good
19 driver. I don't know why I think that.

20 Q. Okay. Now, have you ever
21 spoken with Officer Allen Chen since the
22 incident with Heins Rodriguez um, about
23 what happened that day?

24 A. After, no.

25 Q. Okay. So since August 13, 2015

1 Z. ZHENG

2 you haven't spoken about what happened that
3 day?

4 A. No.

5 Q. Okay. Um, how about with
6 Sergeant Starrantino, have you spoken with
7 him about what happened that day since the
8 incident?

9 A. No.

10 Q. How about Sergeant Cantalino
11 have you spoken with him since August 13,
12 2015 about what happened to Heins
13 Rodriguez?

14 A. No.

15 Q. Okay. How about Sergeant
16 Shafidire (phonetic), have you spoken with
17 her since August 13, 2015 about what
18 happened?

19 A. I'm sorry. Sergeant who.

20 Q. Shafidire. Eunice Shafidire.

21 A. I'm not sure who that is
22 actually.

23 Q. Okay.

24 A. No.

25 Q. Okay. Um, have you ever spoken

1 Z. ZHENG

2 or communicated in any way with Allen --
3 Officer Allen Chen about this litigation?

4 MR. BERGMAN: Objection. You
5 can answer.

6 A. He sent me a message at one
7 time. That was it.

8 Q. Okay. When you say he sent you
9 a message what do you mean by that; text or
10 an e-mail?

11 A. Text.

12 Q. When did he send you a text
13 message?

14 A. At the Criminal Court
15 proceeding a few years ago.

16 Q. Was this -- which Criminal
17 Court proceeding was it?

18 A. Um, Ms. Rodriguez Criminal
19 Court proceeding.

20 Q. Okay. What did the text say?

21 A. I don't remember exactly. If
22 you have paperwork to refresh but I don't
23 remember exactly what it says.

24 Q. Okay. Um, I don't need to know
25 exactly. I do have the paperwork and we're

1 Z. ZHENG

2 going to go into it but right now I'm just
3 trying to get your general sense and just
4 whatever you remember.

5 A. I think they called him, he
6 didn't pick up the phone and he texted me
7 something.

8 Q. Okay.

9 A. Yeah.

10 Q. And so um, when you say the ADA
11 called him, what do you mean by that?
12 Like, what does that have to do with him
13 texting you?

14 A. He was my partner that day for
15 the incident.

16 Q. Okay.

17 A. So ADA also called him. For
18 what, I have no idea but the ADA called him
19 that day.

20 Q. What was he texting you about?

21 A. He's --

22 MR. BERGMAN: Objection. You
23 can answer to the extent.

24 A. I don't want to say word for
25 word. I, I, think the text is in there. I

1 Z. ZHENG

2 didn't respond to it so I don't want to say
3 what I vaguely remember right now.

4 Q. Okay. Just generally. Just a
5 very general vague. Like, do you know the
6 subject matter? Was it about --

7 A. It was the subject matter,
8 yeah.

9 Q. About the --

10 A. About the a case.

11 Q. About the case. Okay. Uh, and
12 you said you didn't respond?

13 A. No.

14 Q. Why didn't you respond?

15 A. Because it was impeding the
16 criminal investigation at the time. It was
17 a trial. So, I told -- I told the ADA
18 right away. I showed it to the ADA right
19 away.

20 Q. Okay. Um, and when he texted
21 you where were you physically?

22 A. At the Criminal Court.

23 Q. Okay. And were you in the
24 courtroom or outside the courtroom?

25 A. Outside the courtroom.

1 Z. ZHENG

2 Q. Okay. And so when he texted
3 you as far as you know was he in the
4 courtroom or outside somewhere?

5 A. He wasn't there. He was at the
6 precinct.

7 Q. Okay. I understand. Um, and
8 had you just -- had you been testifying in
9 court yet?

10 A. I don't remember.

11 Q. So let me ask you that in a
12 better way. That day when you got that
13 text from Officer Chen had you testified
14 about this case in Criminal Court?

15 MR. BERGMAN: Objection. You
16 can answer.

17 A. I did.

18 Q. Okay. Did you testify before
19 you got the text?

20 A. After.

21 Q. Okay. And, so am I correct in
22 thinking that you said you got the text and
23 then showed it to the ADA?

24 A. Correct.

25 Q. Okay. What's the name of the

1 Z. ZHENG

2 ADA?

3 A. Oh, um, I don't remember.

4 Q. Okay. Is it a male or female?

5 A. Male.

6 Q. Okay. What did you say to him,
7 if anything?

8 A. "My partner just sent me this.
9 Here you go."

10 Q. Okay. What did he say?

11 A. "Make sure don't delete it.
12 Give it to me a copy of it."

13 Q. Okay. And so, did you give him
14 a copy?

15 A. Yes.

16 Q. When did you give him a copy?

17 A. As soon as I got back to the
18 precinct I e-mailed him a copy.

19 Q. Okay. And, um, did you ever
20 speak with Officer Chen about it?

21 MR. BERGMAN: Objection. You
22 can answer.

23 A. No.

24 Q. Okay. Did you ever tell him
25 that you showed it to the ADA?

1 Z. ZHENG

2 A. No.

3 Q. Why not?

4 A. Well it wasn't for him to know.

5 Q. Okay. Why wasn't it for him to
6 know?

7 MR. BERGMAN: Objection. You
8 can answer.

9 A. I think he was that -- for me
10 at the time I was -- I think it was --
11 legally I wasn't supposed to show it to
12 him. Legally. To me that's how I felt at
13 that time.

14 Q. Okay. Did you ever tell anyone
15 any supervisors within NYPD what Officer
16 Chen had done?

17 A. No.

18 Q. Why not?

19 A. The -- it wasn't against the
20 rules of the Department to -- that's how I
21 feel at the time.

22 Q. Well, I think you had just said
23 that the text was, I didn't get exactly
24 what you said, um, impeding a criminal
25 investigation; is that right?

1 Z. ZHENG

2 A. I think at the time, yes.

3 Q. Okay. So don't you think that
4 that would have been appropriate to tell a
5 supervisor within NYPD about that?

6 MR. BERGMAN: Objection. You
7 can answer.

8 A. No.

9 Q. Why not?

10 A. Is it's already at a criminal
11 procedure at the time and has nothing to do
12 with my supervisor at NYPD department.

13 Q. Okay. So -- so Officer Chen
14 texting you about, um, I guess, the
15 underlying incident that you were
16 testifying about in Criminal Court, you
17 didn't think that that was necessary to
18 bring to the attention of any supervisors
19 within NYPD?

20 A. No.

21 Q. Okay. Um, and do you know if
22 um, if the ADA ever spoke with Officer Chen
23 about the text?

24 A. I don't know.

25 Q. Okay. And, you might have

1 Z. ZHENG

2 already said this and did Officer Chen ever
3 speak to you about the text or about the
4 fact that you had given it to the ADA?

5 MR. BERGMAN: Objection. You
6 can answer.

7 A. No.

8 Q. Okay. Um, did what he text in
9 any way affect how you testified that day?

10 A. No.

11 Q. Okay. Um, what was subject of
12 your testimony that day in Criminal Court?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. Of what happened that day.

16 Q. Okay. So was that the only day
17 you testified?

18 A. At Criminal Court.

19 Q. Was that the only day you
20 testified at Criminal Court in connection
21 with the arrest of Heins Rodriguez?

22 A. Yes.

23 Q. Do you know whether or not
24 Officer Chen ever testified in that
25 Criminal proceeding?

1 Z. ZHENG

2 A. I don't know.

3 Q. Do you know the result of the
4 prosecution against Mr. Rodriguez?

5 A. No.

6 Q. Okay. Did you ever ask anyone
7 to find out what it was?

8 A. Nope.

9 Q. Um, why not?

10 MR. BERGMAN: Objection. You
11 can answer.

12 A. Wasn't my place to find out.
13 They send you a letter now from the ADA's
14 office telling you results and I never
15 received it.

16 Q. Okay. Um, I might have asked
17 you this already, have you ever testified
18 in Civil Court?

19 A. Yes.

20 Q. Okay. Um --

21 A. Excuse me. I'm sorry. Not to
22 trial. Just a deposition.

23 Q. But you testified in Criminal
24 Court; is that right?

25 A. Yes.

1 Z. ZHENG

2 Q. Okay and in this case and
3 approximately how many other times have you
4 testified in Criminal Court?

5 A. Approximately 30, 40 times.

6 Q. Okay. Has your testimony ever
7 been found to be incredible meaning not
8 believable by a judge as far as you know?

9 A. No.

10 Q. Okay. How did you find out you
11 were being sued in this case?

12 A. The letter. They send it to my
13 precinct and also to my house.

14 Q. Okay. And, so when you
15 received the paperwork what did you do?

16 A. Ah, there is a form we have to
17 fill out and they request legal counsel.

18 Q. Okay. Um, did you -- did you
19 read through the paperwork?

20 A. Yes.

21 Q. Do you know what Mr. Rodriguez
22 is claiming in this lawsuit?

23 A. Claiming what?

24 Q. What he's --

25 A. I know he's suing me I don't

1 Z. ZHENG

2 know what he's claiming for.

3 Q. Okay. So you don't know what
4 he's suing about?

5 MR. BERGMAN: Objection. You
6 can answer.

7 A. He's suing for -- you know, I
8 don't know. Sorry.

9 Q. Okay. Um, well I guess I don't
10 understand, why don't you know what he's
11 suing you about?

12 A. It's all on the paper, I think.

13 Q. Right?

14 A. Suing for what struck -- me
15 strucking (sic) him bike with the car.

16 Q. Right.

17 A. Right and I don't know what
18 else actually.

19 Q. Okay. That's okay. I don't
20 need like the legal terms. I just meant
21 generally what's it about.

22 A. Okay.

23 Q. So it's about him claiming that
24 you struck him?

25 A. Yes.

1 Z. ZHENG

2 Q. Okay. How do you feel about
3 him suing you in this case?

4 A. Not happy.

5 Q. Why not?

6 A. Because, um, he did something
7 wrong, I didn't do anything wrong but you
8 know I'm being sued because the legal
9 system.

10 Q. Okay. Um, and -- and um, why
11 do you think you didn't do anything wrong?

12 A. I did my job --

13 Q. Okay.

14 A. -- that day.

15 Q. Um, do you think that um, you
16 in any way caused his injuries?

17 A. No.

18 Q. And when you say, um, the legal
19 system what do you mean by that?

20 A. The legal system. That's why
21 we're sitting here.

22 Q. Okay. So he's bringing a
23 lawsuit against you?

24 A. Correct.

25 Q. Okay. Um, have you ever um,

1 Z. ZHENG

2 spoken with anyone else about this
3 litigation aside from your attorneys?

4 A. No.

5 Q. Okay. Um, do you still work
6 with Officer Chen?

7 A. Sometimes, yes.

8 Q. Okay. Do you consider him a
9 personal friend?

10 A. Yes.

11 Q. Okay. Have you ever socialized
12 with him outside of work?

13 A. Yes.

14 Q. Aside from the checks that he
15 sent you while you were in Criminal Court
16 um, has he ever sent you or did you ever
17 send him e-mails, text or anything about
18 what happened that day?

19 A. No.

20 Q. Um, how about uh, Sergeant
21 Starrantino, do you still work with him?

22 A. No. I never worked with him,
23 actually.

24 Q. Um, what do you mean by that?

25 A. He was never like my direct

1 Z. ZHENG

2 supervisor at any point.

3 Q. Okay. Um, how about Sergeant
4 Cantalino, do you still work with him?

5 A. He was never direct my -- my
6 direct supervisor either.

7 Q. Okay. Is he still at the 110?

8 A. He has cancer, I think
9 (confidential.)

10 Q. Okay. Um --

11 MR. BERGMAN: I just ask that
12 that last thing be marked
13 confidential.

14 THE WITNESS: Right. Sorry.

15 Q. What do you think of Officer
16 Chen? What's your opinion of him as police
17 officer?

18 A. A good person.

19 Q. You think he's a good police
20 officer?

21 A. Yes.

22 Q. Okay. Um, are you familiar
23 with the NYPD's policies on vehicle
24 pursuits?

25 A. Um, no.

1 Z. ZHENG

2 Q. Um, well, let me just ask more
3 generally. What's your understanding of
4 what you're supposed to do as a police
5 officer when you're in pursuit of a
6 perpetrator?

7 A. That I'm allowed to -- it's a
8 police officers job to do.

9 Q. How do you do it? How are you
10 supposed to do it?

11 A. Safely.

12 Q. Okay. What do you mean by
13 "safely"?

14 A. Um, just safely as possible as
15 you can.

16 Q. So --

17 A. Safely. Don't cause injury.
18 Dont cause accident.

19 Q. Okay. And so let me just
20 narrow it -- narrow down my question to
21 make it a little easier. So say you're
22 pursuing a bicyclist, okay, um, how are you
23 supposed to pursue a bicyclist when you're
24 in a police vehicle safely?

25 MR. BERGMAN: Objection. You

1 Z. ZHENG

2 can answer.

3 A. I don't have a guideline for
4 it.

5 Q. But do you have any general
6 sense of how you're supposed to do it?

7 A. No.

8 Q. Um, let me ask you this. If
9 you were -- let's say you were pursuing a
10 -- an individual that you thought had just
11 committed a murder and they're fleeing on a
12 bike, um, would you pursue that person the
13 same way you would pursue someone who had
14 just ran a red light on a bike?

15 MR. BERGMAN: Objection. You
16 can answer.

17 A. I don't know.

18 Q. Okay. Um, why not?

19 A. Because I never encounter a
20 thing like that.

21 Q. Okay. So you just have no idea
22 how to answer that.

23 A. No.

24 Q. Okay. Um, is there of any
25 certain distance that you're supposed to

1 Z. ZHENG

2 keep from a person that you're pursuing
3 whether they're on a bike or in a car?

4 A. I don't know exactly how to
5 answer that.

6 Q. Okay. Um, you don't know any
7 certain amount?

8 A. I don't.

9 Q. Okay. How about just generally
10 speaking, do you think you can get really
11 close, does it matter, it doesn't even
12 matter, what do you think?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. I think different situation
16 comes to different courses so I have no
17 idea. You know, if you just asking a
18 general question I have no idea, no.

19 Q. Okay. So you think the
20 proximity that you can get to the person
21 that you're pursuing depends on the
22 situation?

23 A. Yes.

24 MR. BERGMAN: Are we off the
25 record?

1 Z. ZHENG

2 THE VIDEOGRAPHER: Still
3 rolling. You want to go off.

4 MR. BERGMAN: I just want to go
5 grab some water.

6 Q. Okay. Are you familiar with
7 patrol guide section 221-15 that has to do
8 with vehicle pursuits?

9 A. Um, not really.

10 Q. Okay. How about patrol guide
11 section 212-39 that also has to deal with
12 vehicle pursuits?

13 A. No.

14 Q. Okay. Um, and I'm not asking
15 you to specifically be able to tell me
16 exactly what's in there but did you just
17 have any recollection of what you've been
18 taught, if you've been taught it, about
19 pursuits?

20 MR. BERGMAN: Objection. You
21 can answer.

22 A. The only thing I could tell is
23 that we're not allowed to pursue
24 motorcycle. That's the only thing I
25 remember.

1 Z. ZHENG

2 Q. Okay. So you're not allowed to
3 pursue a motorcycle?

4 A. Yes.

5 Q. Okay. So, if someone on a
6 motorcycle is suspected of just committing
7 murder let's say, is it your understanding
8 that you're not allowed to pursue them?

9 A. That's what the department
10 guideline said, I think.

11 Q. Do you know why the department
12 guideline is like that?

13 A. Lawsuits.

14 Q. Lawsuits. Okay. Where did you
15 get that information from?

16 A. From nowhere. I'm just saying.
17 This is what I think.

18 Q. Okay. So I'm gonna -- um, if I
19 can have these marked as Plaintiff's
20 Exhibit 1. This is a copy of the patrol
21 guide section 212-39 and the patrol guide
22 section 221-15.

23 (Whereupon, the aforementioned
24 patrol guide was marked as
25 Plaintiff's Exhibit 1 for

1 Z. ZHENG

2 identification as of this date by the
3 Reporter.)

4 Q. So, Officer Zheng, um, these
5 two patrol guide sections that I'm showing
6 you they are largely the same patrol guide
7 section. One is just a revised copy and
8 one was in place in August of 2015. They
9 both generally say the same thing but feel
10 free to go through both of them and I'll
11 just ask you questions when you're done.

12 A. Sure. (Perusing document.)

13 Q. So, um, Officer, looking at the
14 patrol guide section, have you ever seen
15 the patrol guide section having to do with
16 vehicle pursuits before whether it was the
17 police academy or some other time?

18 A. No.

19 MR. BERGMAN: Objection.

20 Q. You know what let's just -- I'm
21 going to just talk about um, uh, patrol
22 guide section 212-239.

23 A. Yes.

24 Q. Okay. Um, so have you ever
25 seen that before?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. When did you see that?

4 A. In the academy.

5 Q. Okay. Have you seen it since
6 the academy?

7 A. No.

8 Q. Okay. So, is it fair to say
9 that this is how an officer should engage
10 during a vehicle pursuit?

11 MR. BERGMAN: Objection. You
12 can answer.

13 A. Yes.

14 Q. Vehicle pursuit. Okay. And
15 so, um, I'm just going to go through this
16 with you right now. Now, looking at the
17 first section it says number one, you see
18 that?

19 A. Yes.

20 Q. It says initiate vehicle stop
21 whenever feasible, you see that?

22 A. Yes.

23 Q. Okay. And then um, going into
24 number two when it starts talking about a
25 vehicle pursuit. Now, let me ask you this,

1 Z. ZHENG

2 is it your understanding that this patrol
3 guide section only applies to pursuing
4 vehicles and not bicycles?

5 A. Yes.

6 Q. That's what you think?

7 A. Yes.

8 Q. Okay. And, how about for
9 motorcycles? Do you think this applies to
10 motorcycles?

11 A. No.

12 Q. Okay.

13 A. There is different sections for
14 it, I think.

15 Q. Okay.

16 A. I'm sorry.

17 Q. Okay. So it's your
18 understanding that this only has to do with
19 when a police vehicle pursues another
20 vehicle?

21 MR. BERGMAN: Objection. You
22 can answer.

23 A. Yes.

24 Q. Okay. How about trucks?

25 MR. BERGMAN: Objection. You

1 Z. ZHENG

2 can answer.

3 A. Yes.

4 Q. Do you think this has to --
5 this pertains to pursuing trucks?

6 A. Yes.

7 Q. Okay. So trucks and cars but
8 not bikes and motorcycles?

9 MR. BERGMAN: Objection. You
10 can answer.

11 A. Yes.

12 Q. Okay. Um, so let's go through
13 if we can. Um, looking at number two,
14 okay?

15 A. Yeah. Yes.

16 Q. So, tell me what that says.
17 Can you read it for me.

18 A. Determine the necessary of
19 commencing and continuing a vehicle pursuit
20 by considering the following.

21 Q. Okay. And then if you can read
22 A-F.

23 A. Sure. A. Natural offense, B.
24 Time of the day. C. Weather condition. D.
25 Location and population density. E.

1 Z. ZHENG

2 Capability of department of vehicle. F.

3 Familiar with the area.

4 Q. Okay. And um, so talking about
5 um, and I'm going to apply this to the
6 pursuit of Mr. Rodriguez even though I
7 understand he was on a bicycle, okay?

8 A. Okay.

9 Q. Um, so let me ask you this,
10 would it matter to you if you were -- I may
11 have already talked about this. If you
12 were pursuing someone on a bicycle whether
13 they committed a violation or a felony,
14 does that matter to you in terms of how you
15 would pursue them?

16 MR. BERGMAN: Objection. You
17 can answer.

18 A. No.

19 Q. Can you expand on that. What
20 do you mean by that?

21 A. I'll pursue the same way.

22 Q. Okay. So it doesn't matter
23 what the offense is?

24 A. No.

25 Q. Okay. Um -- okay. I

1 Z. ZHENG

2 apologize. Now looking at the note right
3 under that, it says note, department policy
4 requires?

5 A. Yes.

6 Q. Okay. Can you read that for
7 me.

8 A. Department policy requires that
9 a vehicle pursuit be terminated whenever
10 the risks of -- risks to uniform members of
11 service and the public over weigh the
12 danger to the community if subject is not
13 immediately apprehended.

14 Q. Okay. So, um, what's your
15 understanding of what that means?

16 A. If it's too much in risk in
17 danger to the community we should -- we
18 should stop the pursuit.

19 Q. And going down to number three,
20 can you read that?

21 A. Number three?

22 Q. Yes.

23 A. Yes, okay. Notify radio
24 dispatcher at start of pursuit and provide
25 the following information.

1 Z. ZHENG

2 Q. Okay. And if you can just read
3 A-F.

4 A. A. The location. B. Type of
5 vehicle, color and direction of travel. C.
6 Nature of offense. D. Registration number
7 and the state of registration. E.
8 Occupants. F. Any other --

9 Q. Pertinent information?

10 A. Pertinent information.

11 Q. Okay. So, let me ask you, um,
12 have you ever been involved in a vehicle
13 pursuit aside from pursuing Mr. Rodriguez
14 on his bike have you ever been in a vehicle
15 pursuit at any other time whether it's a
16 bicycle, a bicyclist, a car or a truck?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. Not a pursuit, no.

20 Q. Okay. And then how do you
21 define pursuit?

22 A. When the person knowingly I'm
23 stopping him and still continue going.

24 Q. Okay. And even though
25 understand Mr. Rodriguez was on a bike did

1 Z. ZHENG

2 you consider that a pursuit?

3 MR. BERGMAN: Objection. You
4 can answer.

5 A. Yes.

6 Q. Okay. And so, um, is Mr.
7 Rodriguez, as far as you can remember, the
8 only time you've ever pursued someone that
9 you thought you were trying to stop them
10 and they were trying to get away?

11 A. I'm sorry. Say that again.

12 Q. Yeah, let me make that clear
13 for you. So, is the time that you were
14 pursuing Mr. Rodriguez the only time you've
15 been pursuing an individual that you
16 thought was fleeing from you?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. From what I remember, yes.

20 Q. Um, so if you were going to
21 follow the patrol guide in terms of a
22 vehicle pursuit really the only time you
23 would have applied these rules would have
24 been with Mr. Rodriguez; is that right?

25 MR. BERGMAN: Objection. You

1 Z. ZHENG

2 can answer.

3 A. Yes.

4 Q. Okay. And then if you go to
5 um, the second page of that patrol guide
6 and -- okay. If you can hold onto that
7 because I'm going to come back to that in a
8 little bit, okay?

9 A. (Indicating.)

10 Q. Thank you. Now, have you ever
11 been interviewed by anyone within NYPD
12 about what happened with Mr. Rodriguez on
13 August 13, 2015?

14 MR. BERGMAN: Objection. You
15 can answer.

16 A. No.

17 Q. Okay. Um, no one within the
18 110th Precinct?

19 MR. BERGMAN: Objection. You
20 can answer.

21 A. No.

22 Q. Okay. And, you were never
23 interviewed by IAB?

24 A. No.

25 Q. How about CCRB?

1 Z. ZHENG

2 A. Yes.

3 Q. Aside from CCRB have you ever,
4 in any way, been involved in any other
5 interviews in connection with what happened
6 uh, with Mr. Rodriguez?

7 A. No.

8 MR. BERGMAN: Objection. You
9 can answer.

10 Q. Um, so what was your assignment
11 that day?

12 A. Traffic safety officer.

13 Q. Okay. What was your tour?

14 A. Um 1100 hours to 1935. So, 11
15 in the morning to 7:35 P.M.

16 Q. Okay. Were you ever on the
17 anti-crime team?

18 A. Yes.

19 Q. Okay. Uh, when were you on the
20 anti-crime?

21 A. Um, November 2013 to April
22 2014. I'm sorry. What year is this? Yes.

23 Q. So November 2013 to April 2014?

24 A. Correct.

25 Q. Okay. And um, where did you go

1 Z. ZHENG

2 after anti-crime?

3 A. Back to traffic safety.

4 Q. Okay. Why were you removed

5 from anti-crime and put onto traffic

6 safety?

7 A. Personal reasons, I had a baby.

8 Q. Okay. Well, what does that

9 mean; was it they hours or something else?

10 A. Yes. Hours and days off.

11 Q. Okay. So you made the request?

12 A. Yes.

13 Q. Okay. Since going back onto

14 traffic safety you been on traffic safety

15 to present?

16 A. Right. I just got switch

17 assignment November again.

18 Q. Okay. To what?

19 A. To highway safety officer.

20 It's more like an inside administrative

21 job.

22 Q. Inside what?

23 A. Inside like basically doing the

24 paperwork job.

25 Q. Okay. Is that the type of

1 Z. ZHENG

2 assignment that you prefer?

3 A. At the time I requested it,
4 yes.

5 Q. How come?

6 A. Better schedule, better time
7 for the family.

8 Q. Okay. Um, so did you have a
9 partner on August 13, 2015?

10 A. Yes.

11 Q. Okay. Who was your partner?

12 A. Officer Chen.

13 Q. Okay. And, who was your
14 supervisor that day?

15 A. Um, Sergeant Shaffer
16 (phonetic).

17 Q. Okay. So what was your
18 specific assignment aside from patrol; um,
19 were you bike initiative or something else?

20 A. It was a bike initiative that
21 day.

22 Q. What is that?

23 A. Um, basically writing, moving
24 violations to some -- all the bicycles who
25 was doing moving violations.

1 Z. ZHENG

2 Q. Okay?

3 A. Such as going the wrong way,
4 one-way street, stop signs, red lights,
5 etcetera.

6 Q. Okay. Um, and were you on foot
7 or in a vehicle?

8 A. In the car.

9 Q. Was it marked or unmarked?

10 A. Unmarked.

11 Q. And, were you the driver or the
12 passenger?

13 A. Driver.

14 Q. Okay. And, um, was anyone else
15 in your vehicle aside from you and Officer
16 Chen?

17 A. No.

18 Q. How did he determine who would
19 be the driver that day?

20 A. It was no determination. I
21 just started driving.

22 Q. Okay. Would there ever be
23 times when Officer Chen might be the
24 driver?

25 MR. BERGMAN: Objection. You

1 Z. ZHENG

2 can answer.

3 A. Can you define that when we're
4 together or when -- before or after the
5 incident.

6 Q. So is officer Chen, was he your
7 regular partner in 2015?

8 A. We worked together once in a
9 while.

10 Q. Okay. So, when you worked with
11 Officer Chen, would he be the driver, would
12 you be the driver, would you switch off or
13 something else?

14 A. I drive most of the time.

15 Q. Okay. Why was that?

16 A. I like to drive.

17 Q. Okay. And when you -- on
18 August 13, were you in plainclothes or
19 uniform?

20 A. Uniform.

21 Q. Um, and did you make any --
22 aside from Mr. Rodriguez did you make any
23 arrests that day?

24 A. Yes.

25 Q. Okay. How many arrests did you

1 Z. ZHENG

2 make that day?

3 A. One.

4 Q. Aside from Mr. Rodriguez?

5 A. No. Zero.

6 Q. So, Mr. Rodriguez was your only
7 arrest?

8 A. Yes.

9 Q. Approximately, how many arrests
10 do you have?

11 A. Approximately, 250.

12 Q. So describe for me -- we're
13 here today to talk about what happened with
14 Mr. Rodriguez. So, describe for me what
15 you remember happened that day in
16 connection with Mr. Rodriguez?

17 A. Um, I already had one person
18 stopped at this point. I was on 104th
19 street approximately three, four cars away
20 from the intersection of 43 Avenue.

21 Q. Okay. I want to stop you. As
22 you said -- you talk just so that I can
23 make sure I'm understanding.

24 A. Sure.

25 Q. So you are at, you said 104th

1 Z. ZHENG

2 Street?

3 A. I was at 104th Street,
4 approximately, three car lengths away from
5 the -- three or four car lengths away from
6 the 43 Avenue --

7 Q. Okay.

8 A. -- intersection.

9 Q. And, um, where are you, are
10 you --

11 A. Queens.

12 Q. You're in Queens. In terms of
13 the intersection now are you north, south,
14 east, west. What direction are you in?

15 A. Northeast corner on 104th
16 Street.

17 Q. Okay. So northeast corner of
18 104th and um -- and, describe the street
19 that you're on; is it a one-way street, a
20 two-way street?

21 A. 104th Street is a one-way
22 street going southbound only with the
23 parking lane on each side.

24 Q. Okay.

25 A. Which is east and west.

1 Z. ZHENG

2 Q. Okay.

3 A. And one lane of the travel.

4 Q. Okay. And I'm sorry, which
5 direction is that one lane of travel?

6 A. Southbound only.

7 Q. South -- okay. And you said
8 you're three or four car lengths away from
9 the intersection; is that right?

10 A. Yes.

11 Q. Okay. And what's at the
12 intersection; is it a stop sign, is it a
13 street light or something else?

14 A. It's a traffic light.

15 Q. A traffic light. Okay. And
16 describe for me the conditions of 104th
17 that day?

18 MR. BERGMAN: Objection. You
19 can answer.

20 A. What kind of condition are we
21 talking about?

22 Q. Was it under construction or
23 anything like that?

24 A. No.

25 Q. Okay. What were the weather

1 Z. ZHENG

2 conditions that day?

3 A. Clear.

4 Q. And, approximately what time of
5 day was it that you were stopping this
6 other individual?

7 A. Um, I don't remember exactly
8 time.

9 Q. Okay.

10 A. Sometime about 4, 5:00 in the
11 afternoon.

12 Q. Okay. Did you say sometime
13 before 5:00 in the afternoon?

14 A. Sometime between 4 and 5.

15 Q. Okay. Was that the first
16 person you had stopped that day?

17 A. No.

18 Q. So, before you stopped this
19 person that we're talking about right now,
20 approximately, how many other stops had you
21 made that day?

22 A. I don't remember exactly the
23 number.

24 Q. Had you issued any tickets that
25 day?

1 Z. ZHENG

2 A. Yes.

3 Q. Approximately, how many tickets
4 had you issued that day?

5 A. I don't remember exactly
6 numbers.

7 Q. Okay. And, um, were these
8 tickets that you issued, were these for
9 bicyclist, were these for drivers, a
10 combination, something else?

11 A. Bicyclist.

12 Q. Okay. So, was that your
13 assignment that day you were really only
14 focused on bicyclist?

15 A. Yes.

16 Q. Um, and the person that we're
17 talking about that you had stopped right
18 now do you know that person's name?

19 A. I don't remember.

20 Q. Okay. Was it male or female?

21 A. Male.

22 Q. Okay. And, what did he look
23 like?

24 A. Male, Hispanic.

25 Q. Okay. Um, had you seen him

1 Z. ZHENG

2 before?

3 A. No.

4 Q. Okay. And, what were you
5 giving him a ticket for?

6 A. A stop sign.

7 Q. Okay. And, what does that
8 mean?

9 A. He ran a stop sign without
10 stopping.

11 Q. Okay. And so, where were you
12 when he ran the stop sign?

13 A. 42 Avenue and 104th Street.

14 Q. Okay. And so, describe for me
15 how that happened. Are you parked
16 somewhere and you're observing bicyclist
17 and waiting for them to go through the sign
18 or something else?

19 A. My car parked at the northwest
20 corner by the fire hydrant on 42 Avenue
21 facing westbound observing bicyclists going
22 southbound on 104th Street passing the
23 intersection of 42 Avenue.

24 Q. Okay. And so, when you
25 observed this Hispanic male run the stop

1 Z. ZHENG

2 sign what did you do?

3 A. I put a light and sirens, on
4 stopped him at the 104 and 43 corner.

5 Q. Okay. And so, when you say you
6 put your lights and sirens on describe for
7 me exactly what happened. Are you
8 following him at that point?

9 A. Yes.

10 Q. Okay. And, for how long were
11 you following him before he stopped?

12 A. I don't have an exact time, no.

13 Q. Okay. But was it within the
14 same block?

15 A. Um, 42 Avenue to 43 Avenue I'll
16 say 150 feet.

17 Q. Okay. Um, and is he -- is that
18 bicyclist, is he traveling on the road or
19 on the sidewalk?

20 A. On the road.

21 Q. Okay. Did you say there was a
22 bike lane on that road?

23 A. No.

24 Q. Describe for me the stop. Does
25 he just stop in the middle of the road,

1 Z. ZHENG

2 does he pull it up to the sidewalk, what
3 did he do?

4 A. He pulled to the left-hand
5 side.

6 Q. So just explain to me what
7 happened, you got out of the car, what
8 happened?

9 A. I asked for his ID, he gave me
10 his ID and I started writing a summons.

11 Q. Okay. Um, and would you
12 describe him as compliant?

13 A. Yes.

14 Q. Okay. So let me ask you, when
15 you're on this bike initiative and a
16 bicyclist brakes a law or commits a
17 violation is there some kind of rule, do
18 you get out of your car and stop them, are
19 you always pursuing in your vehicle, how do
20 does it work?

21 MR. BERGMAN: Objection. You
22 can answer.

23 A. Depends on the situation.

24 Q. Okay. So describe for me a
25 situation when you would pursue them on

1 Z. ZHENG

2 foot?

3 MR. BERGMAN: Objection. You
4 can answer.

5 A. No, I would never pursue them
6 on foot.

7 Q. Okay. So, you would always
8 pursue them in your vehicle?

9 A. Occasionally, if they come down
10 the block against the traffic we just step
11 out and the car stops them right there.

12 Q. Okay. Um, did you have any
13 training to work the bike initiative?

14 A. No.

15 Q. Okay. Um, so how do you know
16 what to do?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. If they commit a violation stop
20 them.

21 Q. So, um -- so you stopped this
22 Hispanic man right, and then what happened?

23 A. While I was writing him a
24 summons my partner stepped outside the car.

25 Q. Okay. And this is uh, Officer

1 Z. ZHENG

2 Chen?

3 A. Yeah.

4 Q. While you were writing the
5 summons was he inside the car?

6 A. When I stopped the person he
7 was in the car. When I started running the
8 summons he was outside the car.

9 Q. Okay. And then, tell me what
10 happened?

11 A. Um, he saw two persons
12 traveling northbound on 104th Street passed
13 the intersection of 43 Avenue and he was
14 trying to stop this two person.

15 Q. Okay. Um, and so, if you're
16 um, on 104 and you're facing southbound
17 does that mean that these two bicyclists
18 are basically uh, driving towards you?

19 A. Correct.

20 Q. Okay. Um, and um, did you see
21 the two bicyclists?

22 A. Yes.

23 Q. Okay. Did they appear to be
24 together, were they separate or you weren't
25 sure?

1 Z. ZHENG

2 A. Separate.

3 Q. Okay. And um, what did Officer
4 Chen do?

5 A. He tell him to stop.

6 MR. BERGMAN: Objection. You
7 can answer.

8 A. He tell him to stop.

9 Q. Okay. And, describe for me how
10 he did that?

11 A. He raised up his hand tell him
12 stop.

13 Q. Okay. Approximately, how --
14 um, strike that. Were the two bicyclists
15 right next to each other, was one in front
16 of the other, how were they positioned?

17 A. One in front of another.

18 Q. Okay. Um, and how far was the
19 um -- how far were the two bicyclists from
20 each other?

21 A. One to two car lengths away.

22 Q. Okay. And how for far was the
23 front bicyclist when Officer Chen told them
24 to stop from your vehicle?

25 A. Sorry. Say that again.

1 Z. ZHENG

2 Q. How far was the -- the
3 bicyclist in the front how far was he from
4 your vehicle --

5 A. Less than one car length away.

6 Q. -- when Officer Chen told him
7 to stop?

8 A. Oh, less than one car length
9 away.

10 Q. Okay.

11 A. Sorry.

12 MR. BERGMAN: You just have to
13 wait for her.

14 THE WITNESS: Yeah.

15 Q. Okay. Um, and do know whether
16 or not the bicyclist in the front was Mr.
17 Rodriguez?

18 A. No, he was not.

19 Q. Okay. Um, so you -- you know
20 what Mr. Rodriguez looks like?

21 A. Not any -- not anymore, no.

22 Q. How do you know he wasn't the
23 one in the front?

24 A. Because the one in the front
25 stopped.

1 Z. ZHENG

2 Q. Okay. And so, um -- and I
3 think you said the one in the front stopped
4 at less than a car length away from your
5 car?

6 A. Yes.

7 Q. Okay. And so, when that person
8 stopped where were you with this other
9 individual that you're already ticketing?

10 A. I'm sitting inside my vehicle.

11 Q. You're inside the vehicle?

12 A. Yes.

13 Q. Okay. Where is the person that
14 you were ticketing?

15 A. Right next to my car.

16 Q. Okay. Is he on the left side
17 or the right side?

18 A. Left side.

19 Q. Okay. Is he standing in the
20 street?

21 A. Yes.

22 Q. Okay. Um, I think you said
23 that -- that street has traffic going one
24 way?

25 A. One way.

1 Z. ZHENG

2 Q. South or north?

3 A. No, one way goes south.

4 Q. South?

5 A. Correct.

6 Q. So, you have a person standing
7 by your car that you're ticketing and then
8 you also have another cyclist that's now
9 stopped because Officer Chen told him to
10 stop; is that right?

11 A. Yes.

12 Q. And the cyclist that Officer
13 Chen told to stop, is he a male or female?

14 A. Male.

15 Q. Black, white, Hispanic, Asian?

16 A. That I don't remember.

17 Q. Okay. Um, and how did you get
18 inside your car? Because I think last we
19 talked you were out writing a summons. So,
20 describe for me how you got back in your
21 car.

22 A. I don't think I ever said I was
23 writing a summons outside the car.

24 Q. Okay. So then let me just
25 review it again. So, you give this guy a

1 Z. ZHENG

2 summons. Describe for me how you're doing
3 that. What are you doing.

4 A. I stop him --

5 Q. Okay.

6 A. Step out the car ask for ID.

7 Q. Okay.

8 A. And go sit back in my car to
9 write a summons.

10 Q. So, he's basically standing
11 next to the driver's side of the car with
12 his bike waiting for you?

13 A. Correct.

14 Q. Okay. And, approximately how
15 far is he from the driver's side?

16 A. A few feets (sic) away.

17 Q. Okay. And, this is the
18 Hispanic gentleman?

19 A. Yes.

20 Q. Okay. And, does Officer Chen
21 say anything to you before he gets out of
22 the car and tells the other bicyclist to
23 stop?

24 A. No.

25 Q. Um, and what did Officer Chen

1 Z. ZHENG

2 do after the one bicyclist stopped, what
3 happened next?

4 A. He saw the second bicyclists to
5 come down, the same direction, passed the
6 intersection and he tried to stop that guy.

7 Q. Okay. How did he try to stop
8 that guy?

9 A. Same thing. Um, wave up his
10 hand, tell them to stop.

11 Q. Okay. Um, and could you hear
12 him telling the bicyclist to stop?

13 A. Yes.

14 Q. Okay. Were your windows up or
15 down?

16 A. Down.

17 Q. Okay. And um, what happened
18 when Officer Chen said that?

19 A. The -- the second bicyclist
20 actually turned around and run away.

21 Q. Okay. When you say "run away",
22 uh, describe it for me?

23 A. He immediately turned around
24 the bike, went up -- went in a southbound
25 direction made a right turn on 43 Avenue.

1 Z. ZHENG

2 Q. Okay. So, he went a little bit
3 down 104th and did he make a right on 43rd
4 Avenue?

5 A. No, he made a -- he passed 43
6 Avenue --

7 Q. Right --

8 A. Coming to like some distance in
9 front of our vehicle --

10 Q. Okay.

11 A. -- he immediately made a
12 u-turn --

13 Q. Right.

14 A. -- went back to 43 Avenue made
15 a right turn.

16 Q. Got it. Okay. And,
17 approximately how far was he from your
18 vehicle before he made the U-turn?

19 A. He was a car length away from
20 Officer Chen.

21 Q. As far as you remember that was
22 Mr. Rodriguez?

23 A. Yes.

24 Q. Okay. And, what was your
25 understanding of what he was doing at that

1 Z. ZHENG

2 moment?

3 A. From what I understand at that
4 point that when he passed by the
5 intersection I did observe the traffic
6 light was red --

7 Q. Okay.

8 A. -- and also he was going
9 against the traffic.

10 Q. Okay.

11 A. So, that's the two violations
12 that he committed at -- we was supposed to
13 write a summons to.

14 Q. Okay. Um, and did you actually
15 observe him go through a red light?

16 A. Yes.

17 Q. Okay. And, you actually
18 observed him going down 104 against
19 traffic?

20 A. Yes.

21 Q. Okay. And um, when he made the
22 U-turn in front of your vehicle what did
23 you think was going on?

24 A. He was running away.

25 Q. Okay. And um, what happened

1 Z. ZHENG

2 next?

3 A. Officer Chen jumped in my car
4 and we both start um, pursuing him.

5 Q. Okay. What happened to the
6 Hispanic individual that you were in the
7 middle of issuing a summons for?

8 A. I still had his ID at the time
9 and I told him I'll be right back.

10 Q. Okay. And um -- and what did
11 he say, if anything?

12 A. Nothing.

13 Q. Okay. What about the
14 individual that was in front of your car
15 that Officer Chen had told to stop that
16 stopped?

17 A. We have no idea.

18 Q. Okay. You don't know where he
19 went?

20 A. No.

21 Q. Okay. When officer Chen got
22 back in the car did he say anything to you?

23 A. No, I don't remember. I don't
24 remember, no.

25 Q. Okay. And um, was Mr.

1 Z. ZHENG

2 Rodriguez wearing a bike helmet?

3 A. No.

4 Q. Was he wearing headphones or
5 ear phones?

6 A. At the time of the -- of the
7 observation at 104th Street I would have no
8 idea.

9 Q. Okay. You don't have any idea?

10 A. No. At the time of the
11 observation at 103 and -- 104th Street and
12 103 Avenue I had no idea.

13 Q. Okay. And um, did you ever
14 make eye contact with Mr. Rodriguez at any
15 point before he made the U-turn?

16 A. I don't remember.

17 Q. Okay. Um, what gave you the
18 impression that Mr. Rodriguez was running
19 away from you?

20 A. A police officer wearing full
21 uniform standing in the middle of the
22 street telling him to stop he looked in my
23 -- he looked at my uh, partner then turn
24 around, run away.

25 Q. Okay. So you saw Mr. Rodriguez

1 Z. ZHENG

2 at Officer Chin?

3 A. Yes.

4 Q. Okay. And you said Officer
5 Chen was in the middle of the street; was
6 he in -- literally in the middle of 104?

7 A. On the right-hand side of my
8 vehicle.

9 Q. Okay. I just want to make sure
10 I'm understanding exactly where your
11 vehicle is. So you're on 104th Street?

12 A. Right.

13 Q. Okay. And I'm in your car and
14 I'm facing -- on 104th?

15 A. Yes.

16 Q. Okay. Are you on the left side
17 of the street or the right side?

18 A. I'm on the left-hand side of
19 the street. There's a church on the
20 left-hand side. There's a no parking zone.
21 I was parked right there.

22 Q. Got it.

23 A. Half way in. Not -- not whole
24 way in. Half way in.

25 Q. Okay. So when Officer Chen

1 Z. ZHENG

2 gets out of the passenger side he's
3 actually coming out into the street,
4 correct?

5 A. Correct.

6 Q. And um, and so after Mr.
7 Rodriguez makes the U-turn and then he
8 turns left on 43rd; that's right?

9 A. Yes. That's it. Right.

10 Q. Okay. And what direction is he
11 traveling at that point on 43rd?

12 A. Westbound.

13 Q. Okay. And describe for me that
14 street; is it a one-way street, a two-way
15 street?

16 A. It's a -- a -- a two-way street
17 going east and west. A parking lane on
18 each side, south and north.

19 Q. Okay. Um, so he's traveling
20 west on 43rd Avenue?

21 A. Yes.

22 Q. Okay. And, describe for me
23 what happens next. Officer Chen gets in
24 the car and what happens?

25 A. We started going after him.

1 Z. ZHENG

2 Q. Okay. Um, did you go over the
3 radio?

4 A. I don't remember.

5 Q. Okay. Um, and, and when you
6 say you started going after him did you
7 have to -- when you made the left onto 43rd
8 Avenue was there a light there, did you
9 have to go through traffic, what happened?

10 A. I already turned my lights and
11 sirens on. I don't remember the lights
12 situation.

13 Q. Okay. Um so, what happened
14 next?

15 A. We pursued him about one block
16 from -- it's a long block. From -- it's a
17 long block. From 102 Street -- from 104
18 Street all the way to 102st. Almost
19 approximately, 102 Street and um, he hit a
20 parked car and fell off the bike.

21 Q. Okay. Um so, how fast were you
22 traveling when you were pursuing him?

23 A. I have no idea.

24 Q. Okay. Was it more than 10
25 miles an hour?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. More than 15 miles an
4 hour?

5 A. Approximately.

6 Q. Okay. Um, more than 20 miles
7 an hour?

8 A. Not -- not sure.

9 Q. Okay. Um, and I just want to
10 make sure I understand. Between 104 and
11 102, um, that's one block, right?

12 A. Yes.

13 Q. Okay. So there's no 103 in
14 that block, right?

15 A. No.

16 Q. Okay. Um, and, you said you
17 had lights and sirens on?

18 A. Yes.

19 Q. Okay. And, were you and
20 Officer Chen having any communication as
21 you were pursuing him?

22 A. I don't remember, no.

23 Q. Okay. And, if you had to
24 estimate, approximately, how long do you
25 think you were pursuing him on 43rd Avenue

1 Z. ZHENG

2 before Mr. Rodriguez fell off his bike?

3 A. Approximately, less than 30
4 seconds.

5 Q. Okay. And as you were pursuing
6 him on 43rd Avenue did you at any point see
7 whether or not he had earphones or
8 headphones in?

9 A. No.

10 Q. Okay. Um, when you first
11 turned right onto 43rd Avenue did you ever
12 loose site of Mr. Rodriguez?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. No.

16 Q. Okay. Describe for me how far
17 away Mr. Rodriguez was as you were pursuing
18 him on 43rd Avenue from your vehicle?

19 A. At first it was few car lengths
20 away --

21 Q. Okay.

22 A. -- and by the time he fell off
23 the bike I'm approximately a foot away from
24 -- on his left side.

25 Q. Okay. Um, and, when you were a

1 Z. ZHENG

2 foot away from him, are you behind him, are
3 you next to him, where are you in
4 connection with his bike?

5 MR. BERGMAN: Objection. You
6 can answer.

7 A. I'm just catching up to him.
8 So, alongside.

9 Q. Okay. And, um, why did you
10 drive alongside of Mr. Rodriguez' bike?

11 A. Try to get his attention stop.

12 Q. Okay. Um, did Mr. Rodriguez as
13 you were pursuing him down 43rd Avenue, did
14 you ever see him turn around as he was
15 biking to look at you?

16 A. I don't remember.

17 Q. Okay. Um, did you believe that
18 Mr. Rodriguez knew thought that you were
19 pursuing him behind him?

20 A. Yes. Absolutely.

21 Q. Why do you think that?

22 A. He saw us. Lights and sirens
23 were pretty loud.

24 Q. He saw you with the lights and
25 sirens.

1 Z. ZHENG

2 A. The lights and sirens were
3 pretty loud. He saw us before we even stop
4 him.

5 Q. Okay. And, when did he see
6 you, at what point did he see you?

7 A. At the uh -- before he --
8 before he ran away. I was at the 104
9 Street he saw us.

10 Q. Right. So, um, you're saying
11 before he made that U-turn is when he saw
12 you?

13 A. Correct.

14 Q. Okay. Did you ever see him at
15 any point after that turn and see that you
16 were following him?

17 A. I don't remember.

18 Q. Okay. Um, but you remember
19 that he saw you before he made the U-turn?

20 A. Correct.

21 Q. But you don't remember if he
22 saw you at any other time after that?

23 A. There was a pursuing. It was
24 -- it was -- everything happened fast. I
25 don't know.

1 Z. ZHENG

2 Q. Okay. Um, did you think it was
3 appropriate to pull your vehicle up
4 alongside his bicycle to get his attention?

5 A. Yes.

6 Q. Why?

7 A. Because I wanted -- that's the
8 only way I could stop and get his attention
9 to stop.

10 Q. Okay. And, when you pulled up
11 alongside of him approximately how close to
12 his vehicle were you -- to his bicycle were
13 you?

14 A. Approximately, a foot too.

15 Q. Okay. Um, do you think that's
16 appropriate to be a foot or two away from a
17 bicyclist that you're trying to stop?

18 A. Yes.

19 MR. BERGMAN: Objection. You
20 can answer.

21 A. It's still a safe distance. To
22 me it's a safe distance at the time that I
23 could get his attention.

24 Q. Okay. Um -- okay. And
25 describe for me when you said you saw him

1 Z. ZHENG

2 hit another car tell me exactly what you
3 saw?

4 MR. BERGMAN: Objection. You
5 can answer.

6 A. All I know, at the time he lost
7 control, fall off the bike. I did not know
8 he hit the parked car until I came out of
9 my vehicle.

10 Q. Okay. Um, so did you just say
11 you saw him lose control; is that?

12 A. Yes.

13 Q. Okay. What do you mean by lose
14 control?

15 A. Fell off the bike.

16 Q. Okay. Um, could you see why he
17 fell off the bike?

18 A. At the time of the pursuit, no.

19 Q. Okay. Um, so as far as you're
20 concerned did he just look like he was
21 traveling forward and then just --
22 miraculously he just fall off the bike?

23 A. Correct. Yes.

24 MR. BERGMAN: Objection. You
25 can answer.

1 Z. ZHENG

2 Q. Okay. Um, did you see him
3 actually fall -- fall?

4 A. Yes.

5 Q. Okay. Um, describe for me how
6 he fell?

7 A. Um, forward and out.

8 Q. Okay. Did you see him hit a
9 parked vehicle or no?

10 A. At the time of the stop, no.

11 Q. Okay. Um, and, at what point
12 in the block um --

13 MR. FETT: Strike that.

14 Q. So you're pursuing him um, west
15 on 43rd?

16 A. Yes.

17 Q. Okay. Um, and, how long into
18 the pursuit do you decide to pull up along
19 next to him; is it at the beginning, are
20 you halfway down the block, where are you?

21 A. I don't remember.

22 Q. Okay. Um, and, what was the
23 first thing you did when you saw um, Mr.
24 Rodriguez lose control of his bike?

25 A. I did -- parked the car.

1 Z. ZHENG

2 Q. Okay. Where did you park it?

3 A. Right -- right in front of him.

4 Q. Okay. And, um, what did you do
5 next?

6 A. Come out of the car and try to
7 arrest him.

8 Q. Okay. Um, and, why were you
9 arresting him at that point?

10 A. Fleeing from a police officer,
11 um, going the wrong way down the one-way
12 street. At that point also I was hit with
13 the red light and um, disorderly conduct.

14 Q. Okay. So at that point when
15 you're getting out of the vehicle in your
16 opinion he's gone the wrong way down the
17 one-way street?

18 A. Yes.

19 Q. He's run a red light?

20 A. Yes.

21 Q. He's fleeing from a police
22 officer and he's committed disorderly
23 conduct?

24 A. Yes.

25 Q. Okay. Um, and, so did you and

1 Z. ZHENG

2 Officer Chen have any conversation at all
3 before you got out of the vehicle?

4 A. No.

5 Q. Okay. So just describe for me
6 what happens next?

7 A. We jump out of the car, try to
8 handcuff him, he turns his body around a
9 few times, uh, took me, I don't know how
10 long to handcuff him and I put him to sit
11 on the curb at the time.

12 Q. Okay. Um, did he say anything
13 to you at all during that time?

14 A. I don't remember exactly what
15 he said. He said something.

16 Q. Okay. Do you remember in sum
17 and substance what he might have said?

18 A. No.

19 Q. Okay. Did you or Officer Chen
20 say anything to him at all during that
21 time?

22 A. Something. But, I don't
23 remember exactly what it is.

24 Q. Okay. Um, do you remember in
25 sum and substance what it might have been?

1 Z. ZHENG

2 A. No.

3 Q. Okay. Um, at that point did
4 Mr. Rodriguez ask for medical treatment?

5 A. No.

6 Q. Okay. Did he say in any way he
7 was injured or he was hurt?

8 A. No.

9 Q. Okay. Did you ever ask Mr.
10 Rodriguez if he needed medical treatment?

11 A. No.

12 Q. Why not?

13 A. I didn't see any visible --
14 visible injury at the time.

15 Q. Okay. So, um, when you were
16 looking at Mr. Rodriguez your saw no injury
17 on him?

18 A. At the time -- at the time of
19 the arrest, no.

20 Q. Okay. Um, is there another
21 time when you did see injuries?

22 A. At the precinct.

23 Q. Okay. What did you see at the
24 precinct?

25 A. Scratch on his arm.

1 Z. ZHENG

2 Q. Okay. So you saw a scratch on
3 his arm at the precinct?

4 A. Correct.

5 Q. But um, at the scene you didn't
6 see anything?

7 A. No.

8 Q. Okay. Um, and, how about
9 Officer Chen, did he have any conversation
10 or any dialogue with Mr. Rodriguez at that
11 time?

12 MR. BERGMAN: Objection. You
13 can answer.

14 A. No.

15 Q. Okay. Um, and so, I think you
16 said you handcuffed him; is that right?

17 A. Yes.

18 Q. Okay. And then, what happened
19 after that?

20 A. Um, well called the supervisor
21 to come over and verify the rest and took
22 him back to the precinct.

23 Q. Okay. Um, and was that the
24 first time you went over the radio in
25 connection with Mr. Rodriguez?

1 Z. ZHENG

2 A. I don't remember.

3 Q. Okay. And, did a supervisor
4 arrive on scene?

5 A. Yes.

6 Q. Okay. And who arrived?

7 A. Sergeant uh, Starrantino.

8 Q. Okay. Um, and, what happened
9 next?

10 A. I told him what happened and
11 uh, Mr. Rodriguez was transferred back to
12 the -- transferred back to the command.

13 Q. Okay. Um, and what did you
14 tell him happened? What did you say to
15 him?

16 A. He run the -- he, you know, he
17 uh, one-way street, run the red light and
18 we tried to stop him and he run away --

19 Q. Okay.

20 A. -- and then he fell off the
21 book at this location. We arrest him.

22 Q. Okay. Did you tell him
23 anything else?

24 A. I don't remember.

25 Q. Okay. Did Sergeant Starrantino

1 Z. ZHENG

2 ask you any questions?

3 A. I don't remember.

4 Q. Okay. Did you see Sergeant
5 Starrantino speak with Mr. Rodriguez at all
6 at the scene?

7 A. I don't remember.

8 Q. Okay. Um, how about Officer
9 Chen, did he tell the sergeant anything
10 that had happened?

11 A. No.

12 Q. Okay. Um, did any other
13 officers arrive to the scene aside from
14 Sergeant Starrantino?

15 A. I don't remember.

16 Q. Okay. Um, what happened after
17 you told Sergeant Starrantino what
18 happened?

19 A. He said, "all right. Take him
20 in."

21 Q. Okay. And, so what happened?

22 A. We transported -- no. I'm
23 sorry. No, we didn't transport him. Um,
24 someone, I don't remember exactly who but,
25 someone, transported him back to the

1 Z. ZHENG

2 stationhouse.

3 Q. Okay. So another officer?

4 A. Yes.

5 Q. Okay. Um, why didn't you
6 transport him back to the stationhouse?

7 A. I don't have a cage in my car.

8 Q. Okay. Um, and a cage would be
9 like a barrier between you and the
10 arrestee?

11 A. Yes.

12 Q. Okay. Where was uh, Mr.
13 Rodriguez as you were telling Sergeant
14 Starrantino what had happened?

15 A. Uh, sitting by the curb.

16 Q. Why did you have Mr. Rodriguez
17 sitting on the curb?

18 A. I can't put him in my car
19 because I don't have a cage. I'm waiting
20 for a cage car to come over. Um, for the
21 sitting position is the perfect position
22 for us, for our safety and for his own
23 safety.

24 Q. Okay. And, um, where was his
25 bike at the time?

1 Z. ZHENG

2 A. I don't remember.

3 Q. Okay. Do you remember if it
4 was in the street, was it on the sidewalk
5 or somewhere else?

6 MR. BERGMAN: Objection. You
7 can answer.

8 A. I don't remember.

9 Q. Okay. Um, did you ever observe
10 whether or not his bicycle has been damaged
11 in any way?

12 A. No.

13 Q. You didn't observe it or it
14 wasn't damaged?

15 A. There was no damage.

16 Q. No damage.

17 A. No damage.

18 Q. Okay. Um, and, I think you had
19 said at some point you learned that he
20 struck another vehicle.

21 A. He -- his -- his left bar
22 handle hit the parked car.

23 Q. His left bar handle hit the
24 parked car?

25 A. Left handle.

1 Z. ZHENG

2 Q. Okay. Um, and, how did you
3 find that out?

4 A. The owner of the vehicle at the
5 scene at the time approached me was like,
6 "he hit my car."

7 Q. Okay. And so, um -- so, you
8 get out of your car right and you go to
9 immediately arrest Mr. Rodriguez, right?

10 A. Yes.

11 Q. Okay. And so, at what point
12 does the owner of the other vehicle
13 approach you?

14 A. Sometime after it happened.

15 Q. So, Mr. Rodriguez is already
16 handcuffed?

17 A. Yes.

18 Q. Okay. So what's the name of
19 that other individual?

20 A. I have -- I don't remember.
21 It's on the accident report.

22 Q. Okay. And um, male, female?

23 A. Male.

24 Q. What exactly did he say to you?

25 A. He just showed me his car.

1 Z. ZHENG

2 Q. Did he say anything?

3 A. I don't remember.

4 Q. Okay. What was the damage to
5 his car?

6 A. It was a -- a scratch on his
7 driver's side door.

8 Q. Okay. And you're kind of
9 indicating with your hands. About how --
10 how long do you think the scratch was?

11 A. Approximately, a foot or two.

12 Q. Okay.

13 A. I'm not 100 percent sure.

14 Q. Okay. Um, and did you observe
15 any other damage to his car?

16 A. That was it.

17 Q. Um, and I think you said -- did
18 you take a statement from him?

19 A. From?

20 Q. From the -- from the person
21 whose car was damaged?

22 A. Yes.

23 Q. Okay. Um, and, when you
24 learned that Mr. Rodriguez had struck a car
25 at that point did it ever cross your mind

1 Z. ZHENG

2 that he may need medical treatment?

3 A. No.

4 Q. Okay. Um, and, you knew he
5 wasn't wearing a helmet, right?

6 A. Yes.

7 Q. Okay. Did it ever occur to you
8 that he may need medical treatment having
9 just fallen without a helmet?

10 A. There was no visible head
11 injury at the time.

12 Q. Okay. Uh, and so, in your
13 opinion that means he wouldn't need medical
14 treatment?

15 A. No.

16 Q. No, it wouldn't mean it.

17 A. He didn't require it that's
18 what I'm saying.

19 Q. Okay. Um, and, did you ever
20 hear Sergeant Starrantino ask Mr. Rodriguez
21 if he needed medical treatment?

22 A. I don't remember.

23 Q. Okay. Did you ever hear Mr.
24 Rodriguez ask Sergeant Starrantino for
25 medical treatment?

1 Z. ZHENG

2 A. I don't remember.

3 Q. Okay. Um, do you think it
4 would be appropriate to call for an
5 ambulance whether or not you saw injuries
6 when a person had just fallen off his bike
7 and hit a car without a helmet on?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. In that case, I -- I wouldn't
11 -- I didn't think it was appropriate.

12 Q. Okay. And that was because you
13 didn't see any injuries?

14 A. Correct.

15 Q. Okay. Um, and, approximately,
16 how long after Mr. Rodriguez had fallen
17 over and hit the ground was he taken back
18 to the precinct?

19 A. Fifteen minutes or so
20 approximately.

21 Q. Okay. And, during the 15
22 minutes describe for me what happened. I
23 know you spoke with Sergeant Tino
24 (phonetic) but what else was going on?

25 A. I only remember that he got

1 Z. ZHENG

2 transported back to the stationhouse.

3 Q. Okay. Were there any civilians
4 in the area?

5 A. A lot.

6 Q. Okay. So, would you describe
7 it as a crowd?

8 A. Yes.

9 Q. Okay. Um, and describe for me
10 what was going on; were they -- were you
11 speaking with any of them, were you asking
12 the officer what happened, what was going
13 on?

14 A. They was just observing.

15 Q. Okay. Um, was anyone taking
16 pictures or a video?

17 A. I don't remember.

18 Q. Okay. Did you see Mr.
19 Rodriguez interacting with any of the
20 civilians?

21 A. No. I don't remember. I'm
22 sorry.

23 Q. Okay. And, what happened after
24 Mr. Rodriguez was taken away from the
25 scene?

1 Z. ZHENG

2 A. Well, I had to drop off the
3 summons to the person who was still waiting
4 at 104 Street.

5 Q. Okay.

6 A. Then I went back to precinct to
7 process the arrest.

8 Q. Okay. Um, now, did Mr.
9 Rodriguez have any belongings with him at
10 the time he had fallen?

11 A. He had a backpack.

12 Q. Okay. Had you seen that
13 backpack initially when he had made the
14 U-turn on 104?

15 A. I don't remember. No.

16 Q. Okay. And, when you saw him
17 fall where was the backpack?

18 A. On his body. Back.

19 Q. Okay. So it stayed on his back
20 the whole time?

21 MR. BERGMAN: Objection. You
22 can answer.

23 A. I don't remember.

24 Q. Okay. When you handcuffed him
25 did he still have the backpack on?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. Um, so did you remove
4 the backpack or did he --

5 A. Say it again. I'm sorry.

6 Q. Did you remove his -- did you
7 say he had the backpack on when you
8 handcuffed him?

9 A. Yes.

10 Q. Oh, okay. So, you cuffed him
11 with the backpack on?

12 A. Yes.

13 Q. Oh, okay. Why?

14 A. At the time it's a faster way
15 to do it. For my own safety. For my own
16 safety.

17 Q. Okay. Did he have the backpack
18 on while he was sitting on the curb?

19 A. Yes.

20 Q. Okay. So it was on the whole
21 time?

22 MR. BERGMAN: Objection. You
23 can answer.

24 A. What do you mean by whole time?

25 Q. The whole time he's sitting on

1 Z. ZHENG

2 the curb?

3 MR. BERGMAN: Same objection.

4 You can answer.

5 A. I don't remember.

6 Q. Okay. Well, at any point did
7 you see the backpack being removed from him
8 after he was handcuffed while he's sitting
9 on the curb?

10 A. I don't remember why he was --
11 why it was removed.

12 Q. Okay. Did you ever see it
13 removed on the scene before he was taken
14 away?

15 A. I don't remember.

16 Q. Okay. Did you ever search the
17 backpack on the scene?

18 A. To my personal knowledge, no.

19 Q. Okay. Did you ever take
20 possession in any way of that backpack
21 while you were on the scene?

22 A. I don't remember.

23 Q. Okay. Um, did you ever see
24 Officer Chen remove the backpack from Mr.
25 Rodriguez while he was on the scene?

1 Z. ZHENG

2 A. I don't remember.

3 Q. Did you ever see Officer Chen
4 search the backpack on the scene?

5 A. No. I don't remember,
6 actually.

7 Q. Okay. Um, did you see Mr.
8 Rodriguez lifted up from the curb and taken
9 away?

10 A. My memory of from what he --
11 how he got transferred back to the
12 precinct.

13 Q. Yes.

14 A. To, got back to the precinct I
15 just remember I had to serve the summons
16 back to the guy.

17 Q. Okay.

18 A. Then lights and sirens went
19 back to the precinct to process the thing
20 in front of the desk. That's the hold
21 thing I remember at this point.

22 Q. Okay. So, um, so, let's just
23 stick with what you remember. So basically
24 you talked to Starrantino.

25 A. Right.

1 Z. ZHENG

2 Q. And then um, did you have
3 anymore interactions with Mr. Rodriguez
4 after that?

5 MR. BERGMAN: Objection. You
6 can answer.

7 A. I don't remember.

8 Q. Okay. And so, um, did Sergeant
9 Starrantino verify your arrest?

10 A. Yes.

11 Q. Okay. Did he do it right there
12 on the scene?

13 A. That's how -- yes.

14 Q. That's how what?

15 A. That's how we officially do it,
16 yes.

17 Q. Right. What does he say to
18 you?

19 MR. BERGMAN: Objection. You
20 can answer.

21 A. I don't remember.

22 Q. Did he ask you questions about
23 what happened?

24 A. I told him what happened.

25 Q. Okay. Did he ask you any

1 Z. ZHENG

2 questions?

3 A. I don't remember. No.

4 Q. Okay. And, once you told him
5 what happened he said take him in. In sum
6 and substance?

7 A. Yes.

8 Q. Okay. Um, and, did you have
9 any more interaction with Mr. Rodriguez on
10 the scene at that point after that?

11 A. I don't remember.

12 Q. Okay. So just describe for me
13 how you go back and give the summons to the
14 other uh, bicyclist?

15 A. Lights and sirens. Went back
16 to the location. "Sir, here's your
17 summons." Then I had lights and sirens
18 going back to the precinct.

19 Q. Okay. And, so, did you have to
20 make a U-turn on 43 Avenue to go to 104 --
21 back to 104?

22 A. Yes.

23 Q. Okay. And, um -- and that
24 bicyclist was still there waiting for you?

25 A. Yes.

1 Z. ZHENG

2 Q. Okay. Um, because you still
3 had his license; is that right?

4 A. Um, um ID.

5 Q. Okay his ID. And you issued
6 him a summons?

7 A. Yes.

8 Q. What was it for?

9 A. Um, stop sign.

10 Q. Did you talk to him at all
11 about what had just happened?

12 A. No.

13 Q. Okay. Uh, you didn't ask him
14 if he had seen what had just happened?

15 A. No.

16 Q. Okay. After you issued him a
17 summons that day did you ever speak with
18 him again?

19 A. No.

20 Q. Okay. Um, do you know that he
21 was interviewed in connection with what
22 happened to Mr. Rodriguez that day?

23 A. Yes.

24 Q. Okay. How do you know that?

25 A. I saw him at the precinct.

1 Z. ZHENG

2 Q. Okay. Um, you saw him at the
3 precinct that day?

4 A. That night, yes.

5 Q. I'm sorry.

6 A. That night. That same night.

7 Q. Okay. Um, do you know why he
8 went to the precinct that night?

9 A. To be interviewed by
10 investigations.

11 Q. Okay. How did that come about
12 though? I mean, how did they find him if
13 you never spoke to him?

14 A. That, I have no idea.

15 Q. Okay. Um, so you issued him a
16 ticket, you never spoke to him again?

17 A. I don't remember I spoke to him
18 no.

19 Q. Okay. When you saw him that
20 night at the precinct did you speak to him?

21 A. I don't remember. No, I don't
22 think so.

23 Q. Okay. Um, do you have any idea
24 how the investigators would have found out
25 who he was?

1 Z. ZHENG

2 A. My summons.

3 Q. Okay. So, were you asked by
4 investigators for a copy of your summons?

5 A. I don't remember, yeah.

6 Q. Okay. So, um, when you came
7 back to give that man a summons, was that
8 other individual there also, the one who
9 had actually stopped that was riding in
10 front of Mr. Rodriguez?

11 A. No.

12 Q. Okay. And so, you issued him a
13 summons and then you went back to the
14 precinct?

15 A. Yes.

16 Q. Okay. And, you're with Officer
17 Chen?

18 MR. BERGMAN: Objection. You
19 can answer.

20 A. I don't remember.

21 Q. Okay. Did Officer Chen go back
22 with you to issue that summons to the
23 individual on 104th Street?

24 A. I don't remember.

25 Q. How soon after Mr. Rodriguez

1 Z. ZHENG

2 was handcuffed did you get back to the
3 precinct; was it hours, minutes?

4 A. Fifteen, twenty minutes or so.

5 Q. Okay. And what happened when
6 you went back to the precinct?

7 A. I had to fill out the pedigree
8 sheet in front of the desk and I -- itemize
9 the property.

10 Q. Okay. You're talking about for
11 Mr. Rodriguez?

12 A. Correct.

13 Q. Where was Mr. Rodriguez when
14 you first got back to the precinct?

15 A. Still standing in front of his
16 desk.

17 Q. Okay. Um, and, was he being
18 presented to the sergeant?

19 A. Yes.

20 Q. Who was the desk sergeant?

21 A. Casalina (phonetic).

22 Q. Okay. And, who was the officer
23 that was presenting him?

24 A. I don't remember.

25 Q. But, was there an officer

1 Z. ZHENG

2 there?

3 A. Yes.

4 Q. Okay. And this is the 110?

5 A. 110.

6 Q. Okay. Was it one officer with
7 Mr. Rodriguez or two or something else?

8 A. I don't remember.

9 Q. Okay. And describe for me what
10 Mr. Rodriguez looked like at that point?

11 MR. BERGMAN: Objection. You
12 can answer.

13 A. I honestly don't remember.

14 Q. Okay. Um, is this the point
15 when you had seen the scratch on his arm or
16 it was later on or something else?

17 A. No, it was later on.

18 Q. Okay. Um, and, did you speak
19 with Mr. Rodriguez at that point?

20 A. No.

21 Q. Okay. Um, so what happened
22 next?

23 A. I filled out a pedigree sheet
24 and I removed him to a cell. To a holding
25 cell.

1 Z. ZHENG

2 Q. Now, to complete the pedigree
3 sheet didn't you have to ask Mr. Rodriguez
4 questions?

5 A. I don't remember if I asked him
6 a question or if I had the ID at the time.
7 I don't remember.

8 Q. Okay. Um, and when you removed
9 him to the cell did you have any
10 conversation with him?

11 A. I remember I called the
12 ambulance for his scratch and I don't
13 remember anything else.

14 Q. Okay. Um, so you don't
15 remember if you had a conversation with
16 him?

17 A. No.

18 Q. Okay. Why did you call an
19 ambulance if he just had a scratch?

20 A. Just for documentations. Make
21 sure -- regardless if a scratch or not
22 actually we're required to -- if there's an
23 injury we're required to call the
24 ambulance.

25 Q. Okay. Um, and so, did you call

1 Z. ZHENG

2 an ambulance once he was in the cell or at
3 what point did you call the ambulance?

4 A. When he was in the cell.

5 Q. Okay. And you're the officer
6 that called the ambulance?

7 A. I don't remember if it was me
8 or somebody else.

9 Q. Okay. Um, and did you have any
10 conversations with Mr. Rodriguez while he
11 was in the cell?

12 A. I don't remember now.

13 Q. Okay. Did you process him at
14 that time, fingerprint him?

15 A. No.

16 Q. Okay. Why not?

17 A. Um, ambulance came over before
18 my paperwork was even ready and he was
19 removed to the hospital after that.

20 Q. Okay. Um, so when you got to
21 the 110 did you tell the desk sergeant what
22 happened had happened?

23 A. Yes.

24 Q. Okay. What did you tell him?

25 A. He run away from me from, you

1 Z. ZHENG

2 know, going the wrong way one-way street,
3 red light and, um, he hit a parked car and
4 fell off the bike.

5 Q. Okay. And, did the sergeant
6 suggest that someone call an ambulance at
7 that point?

8 A. I don't remember.

9 Q. Okay. Um, do you think it's
10 possible that your car made contact with
11 Mr. Rodriguez?

12 A. I don't know.

13 Q. Were you in the precinct when
14 um, when EMS arrived?

15 A. Yes.

16 Q. Okay. And, did you speak with
17 them and tell them what happened?

18 A. Yes.

19 Q. Okay. And, what did you tell
20 them?

21 A. Same thing. Fell off the bike
22 after, you know, he run away from the
23 one-way street. Not so much in detail.
24 Basically he fell off the bike. Hit a
25 parked car.

1 Z. ZHENG

2 Q. Okay. Did you see -- I think
3 you had said, um, did you see that he had
4 air buds in headphones in once he had
5 fallen off the bike?

6 A. I do not remember that until I
7 saw the video at CCRB.

8 Q. Okay. Did you think it was
9 possible that he did not know that you were
10 pursuing him on 43rd Avenue?

11 A. Honestly, no.

12 Q. Okay. Um, and why is that?

13 A. He saw us coming behind him and
14 lights and sirens pretty loud. That's my
15 belief.

16 Q. Okay. And so, you thought um,
17 he thought he could out run your car?

18 MR. BERGMAN: Objection. You
19 can answer.

20 A. Yes.

21 Q. Okay. And um, when you were
22 telling Sergeant Starrantino what happened
23 did you tell him that you could have
24 possibly made contact with Mr. Rodriguez'
25 bicycle?

1 Z. ZHENG

2 A. I did not make contact with
3 him.

4 Q. Okay. So you know for sure
5 that you did not make contact with him?

6 A. There is no marks on my car,
7 no.

8 Q. Okay. So, um, the only way
9 that you believe you would have made
10 contact with the bike is if there was a
11 mark on your car?

12 MR. BERGMAN: Objection. You
13 can answer.

14 A. Logic thinking, yeah.

15 Q. Now, did you have any damage at
16 all to the right side of your vehicle as a
17 result of what happened to Mr. Rodriguez?

18 A. As a result, no.

19 Q. Okay. Uh, did you have damage
20 at all?

21 A. Prior to that incident, yes.
22 At the start of the day there was a -- a
23 mirror was broken at the time.

24 Q. Okay. And, that's the right
25 side mirror?

1 Z. ZHENG

2 A. Right side mirror.

3 Q. Okay. And, do you know how
4 that happened?

5 A. No, idea.

6 Q. Okay. Um, is that -- what's
7 the number of that vehicle?

8 A. I don't remember. Unmarked
9 447.

10 Q. Okay. Had you ever used that
11 vehicle before?

12 A. Yes.

13 Q. I'm not sure how it works,
14 would you be driving the same car every day
15 or could it be a different car every day?

16 A. Could be a different car every
17 day.

18 Q. Okay. Um, had you been driving
19 that car the day before this incident?

20 A. I don't remember.

21 Q. Okay. Had you ever noticed
22 that the car had a broken passenger side
23 window before August 13, 2015?

24 A. Um, I don't remember. No.

25 Q. Okay. And um, when you first

1 Z. ZHENG

2 used that vehicle, um, on August 13, 2015
3 do you know that somewhere that it has a
4 broken mirror?

5 A. We have to search the car at
6 times, yes.

7 Q. Okay. Did you note it
8 somewhere?

9 A. Um, memo book. I'm sorry.
10 Memo book.

11 Q. Okay. And, how do you know
12 that there was no mark on your vehicle from
13 Mr. Rodriguez' bike?

14 A. What kind of mark are we
15 talking about. There's nothing there.

16 Q. Right.

17 A. Right.

18 Q. So, um, did you at some point
19 check your vehicle to see if there was any
20 -- anything there?

21 A. No.

22 Q. So then how do you know there's
23 nothing there?

24 A. Well, investigation actually
25 took a picture that night.

1 Z. ZHENG

2 Q. Uh-huh. I know.

3 A. Right. So, I think, that's why
4 I know, I guess.

5 Q. Okay. So you testified that
6 you got one to two feet away from a
7 bicyclist --

8 A. Correct.

9 Q. -- right? Um, and then he
10 spontaneously falls off the bike?

11 A. Correct.

12 Q. Okay. And, you think there is
13 no way not possible --

14 A. I'm sorry. Correction. I
15 didn't say spontaneously fall off the bike
16 I said hit a parked car and fall off the
17 bike.

18 Q. Right. And you don't know why
19 that happened?

20 A. He was running away from cops.
21 Anything could happen.

22 Q. It's not that you have a
23 vehicle pursuing him one to two feet away
24 from his bicycle?

25 A. I didn't cause the accident.

1 Z. ZHENG

2 Q. You don't think you cause the
3 accident?

4 A. No.

5 Q. Okay. Why not?

6 A. Because he's the one running.

7 Q. Okay. So, if you're pursuing a
8 civilian who's running from you is it your
9 position that you can pursue him in any way
10 you need to apprehend him?

11 MR. BERGMAN: Objection. You
12 can answer.

13 A. As I said earlier, I think,
14 tried the safest way possible.

15 Q. Okay. And you think driving up
16 alongside of him one to two feet away from
17 him was a safe way to pursue him?

18 A. To tell him to stop. To get
19 his attention for him to stop, yes.

20 Q. Okay. You think that was safe?

21 A. Yes.

22 Q. Um, did he ever tell you that
23 he thought you struck his bike?

24 A. Yes.

25 Q. Okay. When did he say that?

1 Z. ZHENG

2 A. That night he said it. I think
3 during the -- from time of the arrest until
4 he got back to the precinct he said it -- I
5 think he said it to my desk sergeant at the
6 time.

7 Q. Okay. Sergeant Cantalino?

8 A. Yes.

9 Q. Okay. Would that have been
10 when you first came into the precinct?

11 A. Yes.

12 Q. Okay. And, what did he say?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. I don't remember exactly word
16 for word.

17 Q. Okay?

18 A. Something which you just
19 described.

20 Q. Okay. And um, what did
21 Sergeant Cantalino say?

22 A. I think Cantalino called IAB
23 that night. That's what he did.

24 Q. Okay. Um, and did you say
25 anything to Sergeant Cantalino when you

1 Z. ZHENG

2 heard Mr. Rodriguez say that you had struck
3 him with your vehicle?

4 A. I just told him basically what
5 I said earlier what happened with the
6 arrest.

7 Q. Okay. Did you ever say I never
8 touched his bike with my vehicle?

9 A. Nope.

10 Q. Okay. Um, and did you see
11 Sergeant Cantalino call IAB?

12 A. No.

13 MR. BERGMAN: Objection. You
14 can answer.

15 Q. Okay. Um -- and um, were you
16 ever interviewed by IAB about this?

17 A. No idea.

18 Q. Do you know why you weren't
19 interviewed by IAB about this?

20 A. No idea.

21 Q. Okay. Um, do you know whether
22 or not Sergeant Starrantino was interviewed
23 by IAB about this?

24 A. No idea.

25 Q. Okay. How about Queens North,

1 Z. ZHENG

2 were you ever interviewed by them?

3 A. No.

4 Q. Okay.

5 MR. BERGMAN: I was going to
6 suggest taking a break. We are two
7 hours in the deposition I was going
8 to suggest taking a break.

9 MR. FETT: Yes, actually now is
10 a good time. We'll take a break.

11 THE VIDEOGRAPHER: 1:16 P.M.
12 going off record.

13 (Whereupon, a short recess was
14 taken.)

15 THE VIDEOGRAPHER: Back on
16 record. 2:07 P.M.

17 MR. BERGMAN: By Counsel, uh,
18 Officer Zheng wants to make a
19 correction to things he said earlier
20 on the record.

21 A. Number one the bar handle on
22 the bicycle hitting a parked car was on the
23 right-hand side not on the left-hand side.
24 I said left-hand side. It was actually on
25 the right-hand side.

1 Z. ZHENG

2 Q. On the right-hand side of your
3 vehicle?

4 A. No -- my vehicle, also the
5 right-hand side of the bicycle. Right-hand
6 bar.

7 Q. Okay.

8 A. Right. Second thing is, I
9 never observed him when he -- when I say
10 the -- when he run the red light and then
11 when he crossed the street from south side
12 of 104th Street coming to north side of
13 104th Street my point of view of the light
14 was red.

15 Q. Okay.

16 A. So that's how I think he was
17 running the red light at that time.

18 Q. Okay.

19 A. All right. The third thing is
20 that I just remember there was one more
21 accident that happened on personal time.

22 Q. Okay.

23 A. It wasn't on the job time.
24 Sometime around 2012, 2013 the accident
25 happened somewhere at 138th Street and 68th

1 Z. ZHENG

2 Avenue, 68th Drive. I'm sorry. 68th
3 Drive. Um, I was driving down the block
4 and about to park a young girl actually ran
5 out between two cars hit the side of my
6 car.

7 Q. Okay.

8 A. And that's another accident I
9 remember.

10 Q. Okay. Thank you. Um, so let
11 me just go back a lit bit and ask you about
12 that accident with the little girl.

13 A. Ah-huh.

14 Q. So, and that's in Queens?

15 A. Queens, yes.

16 Q. And you said it was
17 approximately 2012 or 2013?

18 A. I don't remember exactly what
19 year. It literally just hit me while I was
20 eating lunch, actually.

21 Q. Okay and this was off duty?

22 A. Off duty.

23 Q. Okay and um, you said you were
24 eating lunch, is your car moving or you're
25 parked?

1 Z. ZHENG

2 A. No, no, no I was eating lunch
3 here. I was downstairs eating lunch. I
4 was remembering.

5 Q. Okay.

6 A. Sorry.

7 Q. I'm sorry. So -- so um -- so
8 your car is traveling down the road?

9 A. I was traveling down the road,
10 right.

11 Q. Okay. And so um, describe for
12 me what happened?

13 A. The family of the -- the other
14 parties family had like about five or six
15 kids something like that.

16 Q. Okay.

17 A. One girl literally just like
18 jump out the car and just ran out to -- it
19 was in between two cars, hit the side of my
20 car.

21 Q. Okay. And approximately, how
22 old she, was she less than 10 years old?

23 A. Less than ten.

24 Q. Okay. Less than five?

25 A. Um, No. I don't think so.

1 Z. ZHENG

2 Q. Okay. And so, she ran out
3 between two parked cars?

4 A. Correct.

5 Q. And um, did you say they ran in
6 front of your car or into the side of your
7 car?

8 A. The back door hit the side
9 mirror. Uh, right-hand mirror.

10 Q. Okay. And, was she injured?

11 A. Yes.

12 Q. What were her injuries?

13 A. I don't remember but I know
14 they took -- they took her to the hospital.

15 Q. Okay. Do you know um, the
16 gravity of the injuries, were they serious,
17 do you know?

18 A. No. I don't remember.

19 Q. Okay. Were you injured?

20 A. No.

21 Q. Was your car damaged?

22 A. No.

23 Q. Okay. Um, and did the police
24 arrive to the scene?

25 A. Yes.

1 Z. ZHENG

2 Q. Okay. And, were you ticketed?

3 A. No.

4 Q. Okay. Um, so did you ever find
5 out what happened to the girl?

6 A. No.

7 Q. Did you ever have contact with
8 that family again?

9 A. No.

10 Q. Um, were you sued in connection
11 with that?

12 A. I have no idea.

13 Q. Um, did you sue the family?

14 A. No. Just to clarify, it was,
15 again, my mom's car.

16 Q. Okay.

17 A. I just happened to drive that
18 day and I had bad luck with it.

19 Q. Okay. Um, did you say it was
20 your mirror that was damaged?

21 A. No, it wasn't damaged. It hit
22 my damaged but it wasn't damaged.

23 Q. Okay. And, what part of her
24 body hit the mirror, do you know?

25 A. No idea.

1 Z. ZHENG

2 Q. So, what you're describing it
3 just sounds like she just ran straight into
4 your car?

5 A. She -- I was driving, it's a
6 parked -- it's a parked -- car parked on
7 the right-hand side.

8 Q. Okay.

9 A. She just went into two cars.
10 Her family had a 15 passenger van.

11 Q. Okay.

12 A. And they were parked unloading
13 kids at the time.

14 Q. Okay.

15 A. She was -- I don't know how
16 many kids now but she was the one that run
17 between two cars --

18 Q. Okay.

19 A. -- and came out from the van.

20 Q. Okay. Um, and she kind of ran
21 into your right side mirror?

22 A. Correct.

23 Q. Okay. Did she fall down?

24 A. Yes.

25 Q. Did she lose consciousness, do

1 Z. ZHENG

2 you know?

3 A. No.

4 Q. Did you see any blood?

5 A. No.

6 Q. Um, and then I just want to
7 clarify your clarification. So you just
8 said in terms of Heins Rodriguez the um --
9 he struck the right side of your car, is
10 that what you were saying?

11 MR. BERGMAN: Objection.

12 A. No.

13 Q. I'm sorry. Say it again.

14 A. I said his right-hand side of
15 the handle bar hit parked car instead of
16 the left-hand side.

17 Q. Got it. And -- okay. Um, I
18 want to just go back over a couple things.

19 When you said Officer Chen
20 originally came out of the vehicle to stop
21 Mr. Rodriguez and the other bicyclist?

22 A. Yes.

23 Q. Um, and how far from your
24 vehicle was Mr. -- was Officer Chen when he
25 put his hand out?

1 Z. ZHENG

2 A. Right hand front corner of my
3 car that's where we were standing.

4 Q. Okay. Um, so he wasn't like
5 right in front -- in front and center of
6 the vehicle he was on the right-hand
7 corner?

8 A. Yes.

9 Q. Okay. And um, did you hear him
10 say anything?

11 A. I don't remember.

12 Q. Okay. Um, and when you -- when
13 he got back in the car I think I asked you
14 this did you guys have any conversation
15 about what you were to do next?

16 A. I don't remember, no.

17 Q. Okay. Um, what was your plan
18 when you got back in the car?

19 A. Stop him to write him a
20 summons.

21 Q. And, what was your plan of how
22 you were going to stop him?

23 A. Hopefully he would stop.

24 Q. Okay?

25 A. I -- I didn't have a plan at

1 Z. ZHENG

2 the time, no. It wasn't like I had enough
3 time to organize this thing to how it --
4 this literally happened 30 seconds, less
5 than minute so I didn't have a plan.

6 Q. How about um, once you turned
7 onto 43rd Avenue and now you're pursuing
8 him, um, did you have a plan at that point?

9 A. All I hoped was I get his
10 attention and he would stop.

11 Q. Okay. And, how did you think
12 you would get his attention?

13 A. Lights and sirens and tell him
14 to stop.

15 Q. Okay. And I think you said
16 your lights and sirens were on the whole
17 time; is that right?

18 A. Yes.

19 Q. Okay. And he wasn't stopping?

20 A. No.

21 Q. Okay. So, at that point um, I
22 think you said you had got one to two feet
23 uh, from his bike?

24 A. Alongside of him, yes.

25 Q. Alongside of him. So, what was

1 Z. ZHENG

2 your plan at that point?

3 A. Tell him to stop hopefully.

4 Q. How would you tell him that?

5 A. My partner can scream out a
6 window if he has to.

7 Q. Okay. And, were your windows
8 up or down --

9 A. Down.

10 Q. -- as you were pursuing?

11 A. Yes.

12 Q. Down?

13 A. Down.

14 Q. Okay. And, did your partner at
15 any point when you were alongside the
16 bicycle yell out of the car?

17 A. I don't remember.

18 Q. Okay. Um, did your partner
19 ever say, hey you're getting too close or
20 watch out or anything like that?

21 A. No.

22 Q. Okay. Did you ever see your
23 partner um, uh, make any kind of signal or
24 wave his hand for Mr. Rodriguez to stop?

25 A. I don't remember.

1 Z. ZHENG

2 Q. Okay. And um, did you ever
3 communicate to your partner that you were
4 going to pull up alongside and you wanted
5 him to stop Mr. Rodriguez?

6 A. No.

7 Q. Okay. Um, but that was your
8 plan how you thought that you would get him
9 to stop?

10 MR. BERGMAN: Objection. You
11 can answer.

12 A. Again, I don't have a -- I
13 didn't have a plan at the time. There's no
14 time to plan or organize things to say how
15 to stop this guy. I'm just hoping to get
16 his attention to say, listen, I'm in a car
17 you're on a bicycle. Hopefully he would
18 stop.

19 Q. Okay. Um, was it ever your
20 intention to stop him by actually coming
21 into contact with his bicycle?

22 A. Say that again. I'm sorry.

23 Q. Was it ever your intention to
24 try and stop him by coming into contact
25 with his bicycle?

1 Z. ZHENG

2 A. Never.

3 Q. Okay. Why not?

4 A. It's the illegal way to do it.

5 My personal opinion at the time.

6 Q. Okay. What do you mean by

7 "illegal"?

8 A. Not illegal but like that would

9 cause him harm if I do that --

10 Q. Okay.

11 A. -- to struck his car to stop

12 him.

13 Q. Okay. Um and, when you say

14 that you were about one to two feet away

15 from him what do you base that on?

16 A. Approximation.

17 Q. Okay. So let me ask you, um,

18 at what point, what caused you to pull up

19 alongside of him?

20 A. I'm sorry. Say that again.

21 Q. What cause you. Because at

22 some point you're pursuing him from behind

23 on 43rd Avenue; is that right?

24 A. Yes.

25 Q. And then at some point you

1 Z. ZHENG

2 decided to pull up alongside of him?

3 A. Yes.

4 Q. Okay. What was your thought
5 process? Why -- why did you do that?

6 A. Hopefully he knows I'm next to
7 him to stop.

8 Q. Okay. So it was to try to get
9 his attention?

10 A. Yes.

11 Q. Okay. And for how long do you
12 think you were traveling alongside of his
13 bicycle?

14 A. I have no idea.

15 Q. Okay. And um, did you see Mr.
16 Rodriguez fall from the bicycle?

17 A. Yes.

18 Q. Okay. Um, so when he fall from
19 the bicycle is his bike next to your
20 vehicle at that point?

21 MR. BERGMAN: Objection to
22 form. You can answer.

23 A. I -- I don't remember exactly
24 what location of the bike at the time. All
25 I know I saw him fly off the bike.

1 Z. ZHENG

2 Q. Okay. So, but if you're seeing
3 him fall off the bike um, you're not
4 looking straight ahead, right, because the
5 bike is next to you, is that fair to say?

6 A. I don't remember where I was
7 looking.

8 Q. Okay. But you observed him
9 fall off the bike?

10 A. Correct.

11 Q. So, you were looking at him?

12 A. Yes.

13 Q. Okay. And so, if the bike is
14 next to you is it fair to say you were
15 looking to your right as he fell off?

16 A. Yes.

17 Q. Okay. Um and, was there any
18 conversation of anything said by your
19 partner at this point?

20 A. No.

21 Q. Okay. Um, when you got out of
22 your vehicle um, and you first were
23 encountering Mr. Rodriguez, did you ever
24 say something like, what happened?

25 A. I don't want to guess. I don't

1 Z. ZHENG

2 remember exactly what I said.

3 Q. Okay. Um, but would that have
4 been something where you wanted to know why
5 you fell off your bike?

6 MR. BERGMAN: Objection. You
7 can answer.

8 A. My ques -- my -- I'm not, you
9 know, uh, not what I said at that time. My
10 only question should be, why you run away.

11 Q. But you don't remember for sure
12 whether you said that?

13 A. No.

14 Q. Um, and I think you said that
15 Mr. Rodriguez never said at the scene that
16 you had struck him?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. I don't remember him saying
20 that.

21 Q. Okay. Um, but you do remember
22 him saying that once you're back at the
23 precinct?

24 A. In front of the desk, yes.

25 Q. Okay. Um, did you think that

1 Z. ZHENG

2 was possible?

3 MR. BERGMAN: Objection. You
4 can answer.

5 A. No.

6 Q. Okay.

7 A. I don't know. I'm sorry. I
8 don't know.

9 Q. Okay. Um, is there any reason
10 you wouldn't believe Plaintiff when he said
11 that you struck him?

12 MR. BERGMAN: Objection. You
13 can answer.

14 A. No.

15 Q. I think -- I think where we
16 left off before was the ambulance had
17 arrived at the precinct?

18 A. Yes.

19 Q. Um, do you remember about how
20 long um, you were at the precinct before
21 the ambulance arrived?

22 A. No.

23 Q. Would you say it was more than
24 an hour?

25 A. No.

1 Z. ZHENG

2 Q. Okay. More than a half hour?

3 A. Uh, less than.

4 Q. Okay. And, I believe at this
5 point Mr. Rodriguez is in the cell; is that
6 correct?

7 A. Yes.

8 Q. Okay. Is he handcuffed?

9 A. No.

10 Q. Okay. Did you search him at the
11 precinct?

12 A. Yes.

13 Q. Okay. Um, you searched his
14 person?

15 A. Yes.

16 Q. Okay. And, did you recover any
17 contraband?

18 A. No.

19 Q. Okay. And um, what about --
20 what about his backpack, where is that at
21 the point?

22 A. Next to him.

23 Q. In the cell?

24 A. No, no, no. When he looked in
25 the cell the backpack was already belongs

1 Z. ZHENG

2 with me at the time.

3 Q. Okay.

4 A. Um -- that's it, yeah.

5 Q. Okay. So let me just
6 backtrack.

7 A. Sure.

8 Q. So when you get to the precinct
9 and he's being presented to the sergeant --

10 A. Uh-huh.

11 Q. -- where is his backpack at
12 that time?

13 A. Right next to him.

14 Q. Okay. On -- like on the desk?

15 A. Not on the desk probably on the
16 floor.

17 Q. Okay. And, did you take
18 possession of it at that point?

19 A. Yes.

20 Q. What did you do with the
21 backpack?

22 A. I -- I just opened it up. Put
23 everything in the bag on the desk.

24 Q. Okay. What was in the bag?

25 A. At that time was, you know, I

1 Z. ZHENG

2 don't remember exactly what it was. It's
3 actually in the voucher. The only one
4 thing I remember is a headphone --

5 Q. Okay?

6 A. -- for now.

7 Q. Okay. Um and, forgive me if I
8 asked this already. Did you hear any
9 conversation that Mr. Rodriguez had with
10 the EMT?

11 A. Um, I was in the room but I
12 don't remember what he said.

13 Q. Okay. When you say "in the
14 room" was he in the cell at that point?

15 A. In the cell room.

16 Q. And, were you in the cell with
17 him when he was being examined?

18 A. Yes.

19 Q. Okay. And, did you see them
20 examining Mr. Rodriguez?

21 A. Yes.

22 Q. Okay. And so, describe for me
23 how that -- what happened in the
24 examination?

25 A. I honestly don't remember.

1 Z. ZHENG

2 Q. Okay.

3 A. Standard procedure actually.
4 They take a look, they ask what happened
5 and take him away.

6 Q. Okay. And, did you see any
7 injuries on Mr. Rodriguez at that point?

8 A. Just a scratch on his arm.

9 Q. The same scratch?

10 A. Yes.

11 Q. Okay. And, which arm was it
12 on?

13 A. I don't remember.

14 Q. Okay. Was it the forearm or up
15 by his shoulder?

16 A. Right here in the back arm.
17 Right here. (Indicating.)

18 Q. Okay. The left arm.

19 A. I don't know left or right.
20 I'm just saying. It is the back right
21 here.

22 Q. Okay. Was that scratch
23 bleeding?

24 A. You could see the veins. It
25 wasn't bleeding.

1 Z. ZHENG

2 Q. Okay. And, you saw no other
3 redness anywhere else?

4 A. No.

5 Q. And um, when you first got out
6 of your vehicle at the scene did you ever
7 see Mr. Rodriguez lose consciousness on the
8 scene?

9 A. No.

10 Q. Did he appear completely lucid
11 to you?

12 A. No.

13 Q. Why not?

14 A. He's -- he's still turning his
15 body around asking questions. I don't know
16 -- I forgot what his question was exactly
17 word for word but he was still talking to
18 me, me and my partner at the time?

19 Q. Okay.

20 MR. BERGMAN: Do you know what
21 "lucid" means?

22 THE WITNESS: Like dizziness or
23 not -- not right.

24 Q. It's exactly the opposite. Did
25 he -- did he appear like uh, out of it or

1 Z. ZHENG

2 dizzy?

3 A. No.

4 Q. Okay. So what you're saying is
5 he seemed completely fine?

6 A. Yes.

7 Q. Clearheaded?

8 A. Yes.

9 Q. Okay. Um, did he ever appear
10 to lose balance or lose his footing at any
11 point when you were handcuffing him?

12 A. I don't remember.

13 Q. Okay. And then when he's in
14 the cell talking to the EMTs did he seem
15 clearheaded?

16 A. Pretty clear to me.

17 Q. And then what happened after
18 the EMTs were in the cell, what happened
19 next?

20 A. Every time the EMT visits
21 they're gonna ask the person, do you want
22 to go to the hospital --

23 Q. Uh-huh.

24 A. -- and if he say yes then they
25 going to take him to the hospital --

1 Z. ZHENG

2 Q. Okay.

3 A. -- and ask what happened.

4 Q. Okay. Did you hear them ask

5 Mr. Rodrig --

6 A. No.

7 Q. Okay. Um, but that's what you
8 assumed happened?

9 A. That's correct.

10 Q. Okay. And so he was taken to
11 the hospital?

12 A. Yes.

13 Q. Okay. Did he walk out of the
14 precinct or was he in a stretcher?

15 A. I don't remember.

16 Q. Okay. Do you know if they
17 applied anything on him like a neck brace
18 or bandages or anything like that?

19 A. I don't remember.

20 Q. Um, I thought I just asked
21 this. Did he walk out of the precinct or
22 on a stretcher?

23 MR. BERGMAN: Objection. You
24 can answer.

25 A. You know, I don't want to

1 Z. ZHENG

2 guess, so I --

3 Q. No --

4 A. No.

5 Q. I don't want you to guess.

6 A. I'm not sure.

7 Q. Um, did you ever hear Mr.

8 Rodriguez ask Sergeant Cantalino for
9 medical treatment when he was standing at
10 the desk?

11 A. The only thing I remember was
12 like, "he hit me with the car" and that was
13 it. I don't remember him asking for an
14 ambulance, no.

15 Q. What did you think when you
16 heard him say that?

17 A. What did I think?

18 Q. Yeah.

19 A. I -- at the time -- I don't
20 think I think anything at the time.

21 Q. Were you worried?

22 A. Little bit, yeah.

23 Q. Okay. How come?

24 A. I think that's just normal
25 human being reaction when someone saying

1 Z. ZHENG

2 you did something -- the accusations
3 everywhere of course. Of course you're
4 going to be worried.

5 Q. And, when you heard him say
6 that did it ever cross your mind that maybe
7 I hit him?

8 A. No.

9 Q. Okay. Not possible?

10 A. No.

11 Q. Why not?

12 A. I didn't hit him.

13 Q. You know you didn't hit him?

14 A. I know I didn't hit him.

15 Q. Okay. Um and, you know that
16 because there were no marks?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. There were no marks also the
20 way I was driving I don't think I hit him.

21 Q. Okay. Um, did you ever ask
22 Officer Chen whether or not you struck the
23 bicycle?

24 A. No.

25 Q. Why not?

1 Z. ZHENG

2 A. I just didn't ask.

3 Q. Okay. Um, when you heard Mr.
4 Rodriguez telling Sergeant Cantalino that
5 he hit me did you think that Mr. Rodriguez
6 was gonna sue you?

7 A. I don't remember what I thought
8 at the time. Possible.

9 Q. Okay. Um, did you ever hear
10 Sergeant Cantalino say to Mr. Rodriguez if
11 you go to the hospital it's going to take
12 you longer to be processed here at the
13 precinct?

14 A. No.

15 Q. Okay. Um, after Mr. Rodriguez
16 left the precinct for treatment did you see
17 him again?

18 MR. BERGMAN: Objection. You
19 can answer.

20 A. No.

21 Q. That night?

22 A. That night. I'm sorry.
23 Clarify. That night I never seen him
24 again.

25 Q. Okay. Um, and so, after he

1 Z. ZHENG

2 left the precinct what did you do?

3 A. Process the arrest.

4 Q. Process Mr. Rodriguez' arrest?

5 A. Yes.

6 Q. Okay. And, what did that
7 involve?

8 A. Um, first of all, I searched
9 his bag. I searched his bag again to make
10 there's no hidden compartments.

11 Q. Okay.

12 A. Um, then voucher everything in
13 the bag.

14 Q. Okay.

15 A. Do the arrest process work and
16 um, do the vouchers.

17 Q. Okay. Um, and I think at this
18 point you said he hasn't been fingerprinted
19 yet, right?

20 A. No.

21 Q. Okay. Any mugshot at this
22 point?

23 A. No.

24 Q. Okay. And um, at this point
25 Sergeant Cantalino has already called IAB;

1 Z. ZHENG

2 is that correct?

3 A. I have no idea. I have no idea
4 what time he called IAB.

5 Q. Okay. Did you ever see
6 Internal Affairs come into the precinct to
7 interview anyone?

8 A. Throughout the night, yes.

9 Q. Okay.

10 A. But I don't know what time they
11 came in.

12 Q. Okay. Um and, when you say
13 "throughout the night" how many different
14 officers did you see coming in to do
15 interviews?

16 A. I don't remember.

17 Q. Okay. You were never
18 interviewed?

19 A. No.

20 Q. Do you know why you wouldn't
21 have been interviewed?

22 A. No.

23 Q. Did you ever ask to tell anyone
24 to be able to tell anyone what happened?

25 MR. BERGMAN: Objection. You

1 Z. ZHENG

2 can answer.

3 A. No.

4 Q. Okay. Were you worried that
5 investigators were coming in to interview
6 people?

7 A. Yes.

8 Q. How about Sergeant Chen, was
9 her ever interviewed?

10 A. Sergeant who?

11 Q. Officer Chen, was he ever
12 interviewed?

13 A. I don't know.

14 Q. Okay. Um, does that make sense
15 to you that you would have gotten
16 interviewed?

17 MR. BERGMAN: Objection. You
18 can answer.

19 A. I have no idea how the um, the
20 upper class (phonetic). Like how they
21 work, actually.

22 Q. Right?

23 A. I mean like the supervisor work
24 arrangement.

25 Q. Right. Uh, do you know if

1 Z. ZHENG

2 Sergeant Starrantino was interviewed?

3 A. No idea.

4 Q. Well, let's assume I represent
5 that he was.

6 A. Okay.

7 Q. He wasn't at the scene when Mr.
8 Rodriguez fell off the bike, is that right?

9 A. No.

10 Q. Okay. So, how would he have
11 information to tell to interviewers about
12 what happened?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. Based on what he told him at
16 the scene.

17 Q. Based on what Mr. Rodriguez
18 told him?

19 A. No, what I told him.

20 Q. Exactly. That's the only way
21 he would have the information?

22 A. Yes.

23 Q. Okay. And so, tell me exactly
24 what you told Sergeant Starrantino at the
25 scene?

1 Z. ZHENG

2 A. What do you mean "exactly"? I
3 don't remember exactly what I said but --

4 Q. Whatever you remember?

5 A. Right. Um, could you come, in
6 what happened. The guy was going the wrong
7 way the one-way street, he run the red
8 light, which is --

9 Q. Right.

10 A. -- I clarified it with, you
11 know, um -- this is what I thought, he was
12 running the red light um, fleeing the scene
13 from us, chasing him down to this block,
14 hit the parked, car fall off the bike and
15 we arrest him for all that charges plus
16 discon.

17 Q. Okay. Um, did you ever fill
18 out a UF49 in connection with Mr.
19 Rodriguez? An unusual incident form.

20 A. No, I don't know what that is.

21 Q. Okay.

22 A. I'm sorry.

23 Q. That's okay. Um, did you ever
24 hear officers at the precinct calling the
25 hospital to check on Mr. Rodriguez?

1 Z. ZHENG

2 A. No. No, not that I remember.

3 No.

4 Q. Okay.

5 A. I don't remember. No.

6 Q. Okay. Um, did you ever talk to
7 Sergeant Starrantino again that night at
8 the precinct?

9 A. I don't remember.

10 Q. How about Officer Chen?

11 A. We spoke when he af -- he --
12 after he -- he went out writing summons
13 again when he came back he saw the weed and
14 um, he saw the marijuana, I'm sorry, and
15 um, he just said, "oh, that's why he
16 runned." That's it.

17 Q. Okay. So, that answered it for
18 you?

19 A. Right.

20 Q. Okay. So let's go back to
21 that. Did Officer Chen go back out to
22 issue summonses um, from the scene?

23 A. No, he dropped me off first, I
24 think. You know what. I'm sorry. I'm not
25 sure --

1 Z. ZHENG

2 Q. That's okay.

3 A. -- what he did. I know I used
4 the same car 447 to drop off the summons to
5 the person I issued it to and I drove the
6 same car back to the precinct then he
7 started driving afterwards.

8 Q. Okay.

9 A. So I don't remember at which
10 point he -- what was the question? Like,
11 you know at what point he went out or not
12 went out but I know I drove that car back
13 to the stationhouse.

14 Q. Okay. And so, when you're
15 doing the paperwork for Mr. Rodriguez it
16 sounds like Officer Chen is back out in the
17 field; is that right?

18 A. Yes.

19 Q. Okay. And so, um, do you
20 remember approximately how many hours or
21 how much time passed before he came back to
22 the precinct?

23 A. Few hours.

24 Q. Okay. And so, are you saying
25 at that point it is Officer Chen that

1 Z. ZHENG

2 searched the backpack?

3 A. No.

4 Q. Okay. You searched the
5 backpack?

6 A. I searched the backpack.

7 Q. Okay. And um, this was after
8 Mr. Rodriguez went to the hospital?

9 MR. BERGMAN: Objection. You
10 can answer.

11 A. Some I don't remember exactly
12 what timeline this is. This is -- I don't
13 remember if it was before or after.

14 Q. Okay.

15 MR. BERGMAN: Can we go off the
16 record for a few seconds.

17 MR. FETT: Sure.

18 THE VIDEOGRAPHER: 2:31 P.M.
19 going off record.

20 (Whereupon, an off-the-record
21 discussion was held.)

22 THE VIDEOGRAPHER: Back on
23 record. 2:31 P.M.

24 Q. So which officer uncovered the
25 marijuana?

1 Z. ZHENG

2 A. I did.

3 Q. Okay. And that was from Mr.
4 Rodriguez' backpack?

5 A. Yes.

6 Q. Okay. And, why did you search
7 his backpack?

8 A. We have to do inventory search
9 because when um, Mr. Rodriguez goes down to
10 Central Booking with a court session he's
11 not allowed -- allowed -- he's not allowed
12 to bring his personal property with him and
13 unless I can call someone from his family
14 to pick up his personal property at that
15 point my only choice is safekeeping the
16 property for him to come back to pick it
17 up, issue a receipt for it --

18 Q. Okay.

19 A. -- which is the procedure for
20 us and that's why I had to go through the
21 whole bag to make sure I'm not missing
22 anything in the bag just in case he's not
23 coming back to pick up the property. When
24 this thing goes down to the property clerk
25 in the -- in the -- the center area of

1 Z. ZHENG

2 Queens somewhere that they going to return
3 it to us saying this is invalid voucher
4 because you didn't do this correctly. Now
5 you have to do it again.

6 Q. So where in the precinct were
7 you when you searched his backpack?

8 A. Right outside the process --
9 processing area. Right outside the cell
10 room.

11 Q. Okay. And um, did you ever ask
12 Mr. Rodriguez for permission to search his
13 backpack?

14 A. No.

15 Q. Okay. Um, did you think that
16 you needed to?

17 A. No.

18 Q. All right. And, what's the
19 difference -- what's an inventory search?

20 A. Basically everything he -- like
21 he possessed at the time of arrest we had
22 to list it out voucher by voucher --

23 Q. Okay.

24 A. -- for safekeeping for him --

25 Q. Okay.

1 Z. ZHENG

2 A. -- so at the time when he got
3 released from court session he could come
4 back safely with an ID to pick up his
5 stuff.

6 Q. Okay.

7 A. For example, if you have a --
8 \$100. So, if he have 100 one dollars I
9 have to voucher \$1 --

10 Q. Right.

11 A. -- just for him to not carry it
12 down to Central Booking.

13 Q. Okay. And, you said you found
14 weed in his backpack?

15 A. Yes.

16 Q. Okay. How much weed did you
17 find?

18 A. It's in the vouch -- I don't
19 remember the amounts. It was a zip bag.
20 You know, I don't want to say the number
21 exactly.

22 Q. That's okay.

23 A. Right.

24 Q. We can go over it later.

25 A. Yeah, yeah, zip bag of

1 Z. ZHENG

2 marijuana at the time.

3 Q. Okay. Um, did you find
4 anything else that was illegal in his
5 backpack?

6 A. No.

7 Q. Okay. And, what did you do
8 with the marijuana?

9 A. First of all I field test it.

10 Q. Okay.

11 A. Then I vouchered it.

12 Q. Okay. What did you field test?

13 A. At the same location where I
14 searched his bag.

15 Q. Okay. And um, what were the
16 results of the field test?

17 A. Positive.

18 Q. Okay. And, at that point did
19 you add any additional charges to Mr.
20 Rodriguez charge?

21 A. Criminal possession of
22 marijuana.

23 Q. Okay. Um and, I think you said
24 at some point you said to Officer Chen "oh,
25 this is why he fled"?

1 Z. ZHENG

2 A. This is a couple hours when he
3 came back he said that.

4 Q. Okay. He said that?

5 A. He said that.

6 Q. Okay. Um and -- um, I think
7 you said you never saw Mr. Rodriguez return
8 to the precinct that night, is that right,
9 from the hospital?

10 A. No.

11 Q. Okay. Um, what time did you
12 leave the precinct that night or when your
13 tour was over?

14 A. Uh, I don't remember exactly.
15 3 or 4:00 in the morning.

16 Q. Okay. And um, what were you
17 doing during that time?

18 A. Process arrest. Talk to ADA.

19 Q. Okay. Um and, you were talking
20 to the ADA in connection with Mr.
21 Rodriguez?

22 A. Yes.

23 Q. Okay. And, did you fax over
24 any documents to the ADA?

25 A. My arrest paperwork, voucher,

1 Z. ZHENG

2 the voucher for the weed, field test copy
3 and couple uh, supporting deposition.

4 Q. Okay. And um -- and, what did
5 you say to the ADA?

6 A. Um, at the time I stated that
7 you know what, we observe him going the
8 wrong way in a one-way street and um, pass
9 the red light --

10 Q. Uh-huh.

11 A. -- and fleeing from us and uh,
12 by the time hit the park car, fell off the
13 bike caused the -- the crowd gathering at
14 the time, traffic jam on -- on the 43
15 Avenue and um, when we got back to the
16 precinct the during SILA, which is search
17 of incident arrest --

18 Q. Uh-huh.

19 A. -- um, that I find like a
20 couple zip bags of marijuana --

21 Q. Ah-huh.

22 A. -- and that was it.

23 Q. Okay. Um and you -- how many
24 times did you speak with the ADA that
25 night?

1 Z. ZHENG

2 A. That night, once or twice.

3 Q. Okay. Um, do you know if it
4 was once or if it was twice?

5 A. I don't remember exactly.

6 Q. Okay. Um, anything else you
7 did that night in connection with Mr.
8 Rodriguez' arrest?

9 A. Not that I remember right now.

10 Q. Okay. Um, did you ever see who
11 the investigators were interviewing who
12 came to the precinct?

13 A. No.

14 Q. Okay. Um and, did you ever
15 find out the result of the investigation?

16 A. No.

17 Q. Okay. Did you ever ask?

18 A. No.

19 Q. Okay. Why not?

20 A. It's not my place to ask. I'm
21 just a cop. It's a the -- it's a
22 supervisor division. Decision. I'm sorry.

23 Q. Okay. Um, did you ever inquire
24 about Mr. Rodriguez' injuries or how he was
25 doing?

1 Z. ZHENG

2 A. Nope.

3 Q. Okay. Why not?

4 A. I -- I didn't think he was that
5 much injured at that time so I didn't want
6 to ask.

7 Q. Okay. Um, the individual that
8 you struck with your vehicle that's suing
9 you you're backing into him, I think?

10 MR. BERGMAN: Objection. You
11 can answer.

12 A. Uh, which one. The backing one
13 I'm sorry. Yes.

14 Q. Um, did you arrest him?

15 A. No.

16 Q. Okay. So he was not one of the
17 individuals that I guess your sergeant or
18 you were looking for?

19 A. I'm sorry. I'm not sure I
20 understand the question.

21 Q. When you were backing your
22 vehicle up?

23 A. Ah-huh.

24 Q. Okay. That was because weren't
25 you -- you were on anti-crime at that

1 Z. ZHENG

2 point, right?

3 A. Yes.

4 Q. Okay. And so, weren't there
5 suspicious individuals in the area?

6 A. No, people in the backyard was
7 -- two houses down. One house or two
8 houses down at the time.

9 Q. Okay. And, do you know whether
10 or not the individual that you struck was
11 that one of the suspicious individuals?

12 A. No.

13 Q. Okay. Um, how did you find
14 that out?

15 A. Very simple. He came from the
16 right-hand side. The house we were look
17 for, the right-hand side had three people in
18 the backyard, that three people actually
19 all lived in the house, was working on the
20 house in the backyard at the time.

21 Q. Okay?

22 A. Because after we struck the
23 person we still actually did the
24 investigation of the three person in the
25 backyard and we came out with a positive a

1 Z. ZHENG

2 result, you know, that they weren't doing
3 any criminal activity at the time.

4 Q. Okay. And, then um -- and the
5 individual that you struck he -- after he
6 filled out an accident report he just left?

7 A. Yes.

8 Q. Okay. Um, when you were at the
9 precinct processing Mr. Rodriguez' arrest
10 did you see the bicyclist that you summoned
11 come into the precinct?

12 MR. BERGMAN: Objection. You
13 can answer.

14 A. I know it took the bike back.
15 I never seen it though.

16 Q. Okay. Let me, let me, let me
17 just ask that better. Um, the bicyclist
18 that you had to go back and give him his
19 license that you were initially giving him
20 a summons and then you went and you pursued
21 Mr. Rodriguez and then you had to go back
22 and give the cyclist back his -- his uh,
23 ID?

24 A. Yes.

25 Q. Okay. Um, did you later on

1 Z. ZHENG

2 that night see that bicyclist come into the
3 precinct to be interviewed?

4 A. Yes.

5 Q. Okay. Did you ever speak with
6 him?

7 A. I don't remember I did.

8 Q. Okay. Say that again.

9 A. I don't remember I did.

10 Q. Okay. Um, do you know how long
11 he was interviewed for?

12 A. No idea.

13 Q. Okay. Um, do you have any idea
14 what he told the interviewers?

15 A. No.

16 Q. Okay. Um -- now, did you have
17 to ever appear in Criminal Court in
18 connection with Mr. Rodriguez' prosecution?

19 A. Yes.

20 Q. Okay. On how many occasions?

21 A. One or two. I'm not
22 100 percent sure exactly.

23 Q. Okay. Um -- and that was to
24 testify?

25 A. I know I testified for once for

1 Z. ZHENG

2 sure.

3 Q. Okay. And that's what we were
4 talking about earlier when you got the text
5 message?

6 A. Yes.

7 Q. Okay. Um, now when you spoke
8 with the ADA that night um, did he or she
9 fax you back a criminal complaint to
10 review?

11 A. Um.

12 MR. BERGMAN: Objection. You
13 can answer.

14 A. A sheet for me to sign?

15 Q. Yes.

16 A. Yes.

17 Q. Okay. Uh, the supporting
18 deposition.

19 A. Yes, that's what it's called.

20 Q. I apologize.

21 A. Sorry.

22 Q. And so, did you review it?

23 A. Yes.

24 Q. Okay. And, you signed it?

25 A. Yes.

1 Z. ZHENG

2 Q. Did you make any corrections or
3 changes?

4 A. Not at that time, no.

5 Q. Okay. Um, at some point later
6 did you have to make any corrections or
7 changes?

8 A. Yes, I did.

9 Q. Okay. So tell me about that.

10 A. Um, the very next time, the,
11 daytime, I passed by the 104 and 43
12 intersection while stopped at the red light
13 at the time I realize it's a three-phase
14 light. What I mean is like, the light's
15 only for westbound, eastbound traffic on 43
16 Avenue --

17 Q. Right?

18 A. -- and because the one-way
19 street there's only one light for uh,
20 southbound traffic on 104 Street. So, I
21 realize when Mr. Rodriguez coming down from
22 -- going down northbound down on 104 Street
23 going against traffic at his sight that he
24 didn't have a traffic light at the time.

25 Q. Okay. Um, why were you in that

1 Z. ZHENG

2 area again the next day?

3 A. That's the exactly location
4 that we going back to work every single
5 day.

6 Q. Okay. And, were you alone in
7 the car at that time?

8 A. Yes.

9 Q. Okay. And um -- so you hadn't
10 realized that when you initially -- the
11 whole night of August 13, 2015 you didn't
12 realize that?

13 A. Because I was -- the way my
14 point of view at the time was with the stop
15 was I'm facing exactly red light at the
16 time. So, in my mind, at that night, you
17 know what, he just ran the red light.
18 Because my mind I saw the red light in my
19 point of view.

20 Q. Okay.

21 A. So, when he going against that
22 traffic and comes through the other side of
23 the street my mind's thinking, all right,
24 that's a red light at the time.

25 Q. Okay.

1 Z. ZHENG

2 A. I wasn't thinking he was coming
3 from the opposite direction that might not
4 be a light on that side.

5 Q. Okay.

6 A. That's what I wasn't thinking.
7 That was my mistake.

8 Q. Okay. And um, was there ever
9 any discussion that day, uh, the day of the
10 incident with Officer Chen. Did he also
11 realize, oh, you know, there's no light in
12 the direction of Mr. Rodriguez?

13 A. No.

14 Q. Okay. Um, and so, the next day
15 when you realized you made this mistake,
16 what did you do?

17 A. Not the very next day. The
18 first time I went to the ADA's office --

19 Q. Okay.

20 A. -- I told the ADA that day --

21 Q. Okay.

22 A. That the red light charge that
23 it couldn't be sustained because by Mr.
24 Rodriguez' point of view there is no way he
25 can see the red light or not because there

1 Z. ZHENG

2 is no light for his sight.

3 Q. Okay. And so um, when did you
4 tell the ADA this?

5 A. That was the first day I got
6 called for the case to go down there to
7 talk about the case.

8 Q. Okay.

9 A. I think. I'm sorry.

10 Q. Um, do you know when that was?

11 A. No.

12 Q. Okay. Do you know how many
13 days after the incident that was?

14 A. A while.

15 Q. Okay. Would it be weeks?

16 A. I really don't remember. But,
17 a couple, yeah.

18 Q. And um, what did the ADA do, if
19 anything, when you told him?

20 A. He changed the -- he changed
21 the Affidavit.

22 Q. Okay. And um, did you review
23 that Affidavit?

24 A. I read the story of the
25 Affidavit, yes.

1 Z. ZHENG

2 Q. Okay. You read what?

3 A. The story at the bottom of the
4 Affidavit.

5 Q. Okay. And was it corrected at
6 that time?

7 A. They removed the red light part
8 of the story compared to the first one.

9 Q. Okay. And then you signed it?

10 A. Yes.

11 Q. Okay. Um, so you believe that
12 everything else in the Affidavit was
13 correct?

14 A. Yes.

15 Q. All right?

16 A. At the time, yeah.

17 Q. Um, do you ever know uh, do --
18 MR. FETT: Strike that.

19 Q. Do you know happened to Mr.
20 Rodriguez' charges in connection with this
21 case?

22 A. I'm not sure I understand the
23 question. I'm sorry.

24 Q. That's okay. The charges that
25 -- that were levied against him do you know

1 Z. ZHENG

2 were they dismissed, did he get an APB or
3 something else?

4 A. I have no idea.

5 Q. Did you ever want to find out?

6 A. To be honest with you not
7 really.

8 Q. Okay. Why not?

9 A. I -- I didn't really care that
10 much.

11 Q. Okay. If you can just take a
12 look again at what we were looking at
13 earlier, Plaintiff's Exhibit 1, and we'll
14 look at patrol guide section 212-39.

15 A. Can you --

16 Q. Oh, sorry. Just let me know
17 whenever you're ready.

18 A. Yeah, I'm ready. I'm sorry.

19 Q. That's okay. Um, okay, so
20 looking over this document now, do you
21 believe that you followed the patrol guide
22 in your pursuit of Mr. Rodriguez?

23 MR. BERGMAN: Objection. You
24 can answer.

25 A. Um, yes.

1 Z. ZHENG

2 Q. Okay. Um, so do you believe
3 that you uh, followed him in a safe manner?

4 A. Yes.

5 Q. Okay. And, when you uh, pulled
6 up alongside of his bicycle do you believe
7 that was in a safe manner?

8 A. Yes.

9 Q. Okay. And so looking at the
10 note in the middle of that page, department
11 policy requires that a vehicle pursuit be
12 terminated whenever the risk to uniform
13 members of the service and the public
14 outweigh the danger to the community if
15 suspect is not immediately apprehended. Do
16 you feel you followed that guide in this
17 uh, pursuit of Mr. Rodriguez?

18 MR. BERGMAN: Objection. You
19 can answer over objection.

20 A. See the vehicle -- to determine
21 is not my call.

22 Q. Say that again.

23 A. To -- to determine the vehicle
24 pursuit is not my call.

25 Q. Okay.

1 Z. ZHENG

2 A. It's actually the supervisor's
3 call.

4 Q. Okay. So um, do you believe
5 that you would just continue the pursuit no
6 matter what until you hear from a
7 supervisor?

8 A. No, I believe if I um, if we
9 get to a point that I'm going to harm the
10 people, not your Plaintiff actually, the
11 people who's on the street that I'll --
12 I'll immediately stop.

13 Q. You would have stopped?

14 A. I would have stopped.

15 Q. Okay. Why not my Plaintiff?

16 A. Because all I wanted to is
17 write him a summons, do my job at the time.

18 Q. Right. But I guess the
19 question is um, assuming what you're saying
20 is true, um, all he did was commit a
21 bicycle offense, right?

22 A. Right.

23 Q. Okay. So, did that seem
24 serious enough that you had to pursue him
25 in your vehicle and pull up alongside of

1 Z. ZHENG

2 him the way you did?

3 A. Yes.

4 Q. Why is that?

5 A. To me that was uh, that was my
6 job for the day, I had to do it and if he
7 decided to run away from the cops I think I
8 have the right to pursue him.

9 Q. Okay. Pursue him in any
10 fashion?

11 MR. BERGMAN: Objection. You
12 can answer.

13 A. Like I said, as safe -- as safe
14 -- as safe as possible.

15 Q. Okay. And so, when you say "as
16 safe as possible," what's if it's not just
17 not safe the way you're pursuing him, what
18 do you do in that situation?

19 MR. BERGMAN: Objection. You
20 can answer.

21 A. I don't think it was unsafe at
22 the time.

23 Q. Okay. Would there -- would
24 there ever have been a situation where you
25 just would have stopped and let Mr.

1 Z. ZHENG

2 Rodriguez continue biking?

3 A. Not in this incident uh, I have
4 other incidents yes I would stop and not
5 chasing him down.

6 Q. Okay. But not this incident?

7 A. At the time he -- I don't think
8 he created enough danger for himself, for
9 me or for other people on the street.

10 Q. Okay. And I think I asked you,
11 did you go over the radio when you started
12 this pursuit?

13 A. I don't remember.

14 Q. Okay. Did you maintain a radio
15 contact as you were pursuing Mr. Rodriguez?

16 A. I don't -- I don't -- no, I
17 don't think so.

18 Q. When did you go over the radio
19 to call for a supervisor?

20 A. When he fell off the bike after
21 I handcuffed him.

22 Q. Okay. That was the first time?

23 MR. BERGMAN: Objection.

24 A. I don't remember.

25 Q. But you know you asked for a

1 Z. ZHENG

2 supervisor --

3 A. Yes.

4 Q. -- when you handcuffed him?

5 A. Yes.

6 Q. Do you believe that the way you
7 were pursuing Mr. Rodriguez with your
8 vehicle was threatening in any way?

9 A. No.

10 MR. FETT: Can I have this
11 marked as Plaintiff's Exhibit 2.
12 This is Officer Zheng's memo book
13 entry.

14 (Whereupon, the aforementioned
15 memo book was marked as Plaintiff's
16 Exhibit 2 for identification as of
17 this date by the Reporter.)

18 Q. Officer Zheng will you just
19 take a look at this and let me know when
20 you're ready.

21 A. Absolutely. I'm ready.

22 Q. Have you seen this document
23 before?

24 A. Yes, beside the -- no blackout
25 part.

1 Z. ZHENG

2 Q. Okay. Um, and that's your
3 handwriting?

4 A. Yes.

5 Q. Okay. So turning to the second
6 page that's stamped Def 5?

7 A. Ah-huh. Yes.

8 Q. Can you just read what those
9 two lines say.

10 A. Thursday August 13, 2015 ah,
11 tour 1100 hours to 1935. Present on duty
12 at 110 Precinct. PMD.

13 Q. Okay. And then going to the
14 next page. Can you read that first line.

15 A. 1645 Rodriguez was told by
16 uniform PO Chen, stop at a corner of 104
17 Street and 43 Avenue from going the --
18 going wrong way at a one way -- I'm sorry.
19 Going one way -- going one-way street and
20 red light asked to stop, refused, fled on
21 his bike. While fleeing struck a parked
22 car, fell off bike. 1647 Rodriguez Heins
23 was arrested.

24 Q. Okay. And then can you just
25 read what's on the next page.

1 Z. ZHENG

2 A. For -- arrest for resisting
3 arrest for flaring his arms, discon, red
4 light, going one wrong way on a one way
5 street during SILA department. Defendant
6 was in possession of 12 zip bags of
7 marijuana in his backpack. 215642441 and
8 1935 end of tour. Friday starting my
9 midnight tour, August 8th. August 14, 2015
10 tour 2000 hours to 0435.

11 Q. Did you get overtime as a
12 result of um -- did you work overtime
13 August 13, 2015?

14 A. No.

15 Q. Okay. Um, when you were at the
16 precinct um, while Mr. Rodriguez was there,
17 did you ever see him being interviewed by
18 investigators?

19 A. No.

20 Q. Okay. Do you know that he was?

21 A. No.

22 MR. FETT: Um, can I have this
23 marked as Plaintiff's Exhibit 3.

24 This is the police accident report.

25 (Whereupon, the aforementioned

1 Z. ZHENG

2 accident report was marked as
3 Plaintiff's Exhibit 3 for
4 identification as of this date by the
5 Reporter.)

6 Q. Officer, can you take a look at
7 this and let me know when you're ready.

8 A. Yes.

9 Q. Okay. Have you seen this
10 document before?

11 A. Yes.

12 Q. Okay. Um, aside from the day
13 of incident when have you seen this
14 document?

15 A. Um, well, while I was doing the
16 review with him --

17 Q. Okay.

18 A. And also CCRB.

19 Q. Okay. And, is this your
20 handwriting on the first page?

21 A. Yes.

22 Q. Okay. Are you -- as far as you
23 know are you the only person that wrote on
24 the first page?

25 A. This was only my handwriting on

1 Z. ZHENG

2 this page.

3 Q. Okay. Um, and where were you
4 when you completed this document; were you
5 on scene, do you go back to the precinct or
6 something else?

7 A. Back to the precinct I
8 remember.

9 Q. Okay. Um, and when did you
10 this back at the precinct was this while
11 Mr. Rodriguez was in the precinct or after
12 you going to the hospital or something?

13 A. I don't remember.

14 Q. Okay. Um, and the information
15 that you have for, I assume it's the
16 witness, Cevallos?

17 A. Ah-huh.

18 Q. Okay. Who is that person?

19 A. Owner of the vehicle.

20 Q. Okay. Which vehicle?

21 A. Parked vehicle.

22 Q. Okay. The parked vehicle that
23 Mr. Rodriguez struck with his bike?

24 A. Yes.

25 Q. Okay. And um, when did you get

1 Z. ZHENG

2 this information from Mr. Cevallos?

3 A. Right after he was arrested at
4 the scene.

5 Q. Okay. At the scene?

6 A. Yes.

7 Q. Um, and, where did you write
8 that information down?

9 A. I don't remember.

10 Q. Okay. Um, would you have
11 written it on this arrest report at that
12 time on the scene?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. Possible. I don't remember.

16 Q. Okay. It's not in your memo
17 book so is there anywhere else you would
18 have written any notes about this incident?

19 A. No.

20 Q. Okay. Um, so you done a search
21 of your property and you have no other
22 paperwork or notes in connection with this
23 incident; is that fair to say?

24 MR. BERGMAN: Objection. You
25 can answer.

1 Z. ZHENG

2 A. I'm so sorry. Say that again.

3 Q. Have you searched all of your
4 uh, notes and paperwork to make sure that
5 all of your writings in connection with
6 this incident has been turned over to your
7 attorneys?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. You know, I'm not sure how to
11 answer that question. I'm not sure I
12 understand the question that perfectly.

13 Q. Okay.

14 A. You mean. You know what,
15 actually I'm sorry.

16 Q. That's okay. Nothing to be
17 worried. Um, because you have Mr.
18 Cevallos' information and I know it's not
19 in your memo book and so I'm just wondering
20 if you didn't write it at the scene how did
21 you have the information, where did you
22 write it?

23 A. I remember I was in possession
24 of his registration sticker.

25 Q. Okay. Did Mr. Cevallos come to

1 Z. ZHENG

2 the precinct?

3 A. That, I don't -- I don't
4 remember.

5 Q. Okay. Do you know whether or
6 not Mr. Cevallos was interviewed in
7 connection with what had happened that
8 night?

9 A. No. I don't know.

10 Q. Okay. And so, you had his
11 registration, right?

12 A. At the scene sometimes, yes.

13 Q. Okay. And -- but you don't
14 know whether or not you wrote his
15 information on the accident report at the
16 scene or at the precinct, is that fair to
17 say?

18 A. I don't remember.

19 Q. Okay. Um, aside from your memo
20 book do you ever keep any notes about an
21 arrest or your police work in any other
22 type of notebooks?

23 A. No.

24 Q. Okay. Um, so going down on --
25 on this document where it says vehicle one

1 Z. ZHENG

2 damage code?

3 A. Yes.

4 Q. Okay. Um, can you just explain
5 what that means and what was written in
6 Box 1, 2 and 3?

7 A. Oh, that means uh, uh - 11
8 means the door, that's the point of impact.

9 Q. Okay.

10 A. Uh, number two means the most
11 damage which is actually by the door number
12 11 which approximate location.

13 Q. Okay.

14 A. Um, I believe there's a box by
15 the front bumper too because number 12
16 means um, if you see the picture location
17 it's actually by the front side bumper
18 right there.

19 Q. Okay. And so, if that vehicle
20 had had a mark on the front bumper um, I
21 assume you thought came from the bicycle,
22 did you see that happening?

23 MR. BERGMAN: Objection. You
24 can answer.

25 Q. Did you ever see bicycle strike

1 Z. ZHENG

2 the front of Mr. Cevallos' vehicle?

3 A. Not at that time of the
4 accident, no.

5 Q. Did you see afterward a mark on
6 the front of Mr. Cevallos' vehicle?

7 A. Yes.

8 Q. Okay. And did either he or Mr.
9 Rodriguez say that came from the incident?

10 A. Um, no, Mr. Cevallos said that.

11 Q. Okay. Um, and now, there's a
12 -- that says accident diagram?

13 A. Yes.

14 Q. Okay. Did you draw that?

15 A. Yes.

16 Q. Okay. And so, can you just
17 explain to me what that is?

18 A. Uh, car was parked on the
19 right-hand side of the street bicyclist
20 passed by which is a bad picture.

21 Q. Okay.

22 A. I'm not really good at
23 drawings.

24 Q. No, no, that's okay. And um,
25 so these other boxes right above that

1 Z. ZHENG

2 diagram those are not your -- that's not
3 your writing, right?

4 A. No.

5 Q. Okay. And is there a reason
6 you didn't complete any of these other
7 boxes in that area?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. I'm sorry which box are you
11 talking about?

12 Q. Yeah, let me -- let me be more
13 clear. So it looks to me like you
14 completed the box that -- the box that says
15 vehicle one damages?

16 A. Yes.

17 Q. Okay. But you didn't complete
18 vehicle two?

19 A. No.

20 Q. Okay. Um, is that because
21 there's no vehicle two in this incident?

22 A. There's no bicycle injured --
23 um, there's no vehicle two actually, you're
24 right.

25 Q. Okay. Um, and then it says --

1 Z. ZHENG

2 there's another box below that that says
3 vehicle damage coding?

4 A. I'm sorry.

5 Q. That's okay?

6 A. Yes.

7 Q. Okay. And how come there's
8 nothing written there?

9 A. That's -- that's not for us to
10 write. That's just --

11 Q. Is that like a key?

12 A. Yeah, yeah.

13 Q. Okay. Um, and then where it
14 says the description, the officer's notes
15 down below?

16 A. Yes.

17 Q. Okay. Can you read that to me?

18 A. Sure. At TPO, time, place
19 occurrence, bicyclist was fleeing away from
20 AO, arresting officer while he crashed
21 driver's side of a parked vehicle cause
22 property damage to parked car. Bicyclist
23 was -- was arrested and treat and remove --
24 treated and removed to Elmhurst Hospital by
25 EMS AO observed accident.

1 Z. ZHENG

2 Q. Okay. Um, and so do you think
3 that's an accurate -- accurate description
4 of what happened?

5 A. Uh, yes.

6 Q. Okay. Um, now on the line
7 where you say bicyclist was arrested and
8 treated and removed to Elmhurst Hospital
9 why didn't you include the fact that he was
10 taken from the scene to the precinct?

11 A. Um, we don't write that story
12 into a accident report.

13 THE REPORTER: I didn't hear
14 you.

15 A. I'm sorry. We don't -- we
16 don't do -- the accident report just is
17 perusing the story of what happened that
18 day. We don't write exactly a whole detail
19 list.

20 Q. Okay. So you think that's too
21 much detail to add right in there that he
22 went back to the precinct first?

23 A. Yes.

24 Q. Okay. Um, doesn't that seem
25 misleading -- misleading to you that you're

1 Z. ZHENG

2 saying that he was arrested and treated
3 because he really wasn't arrested and
4 treated right he was taken back to the
5 precinct first?

6 MR. BERGMAN: Objection. You
7 can answer.

8 A. First of all, for the acc --
9 for the accident report I did not have to
10 put that information on it in the first
11 place that was just a sort of story
12 basically bicyclist was arrested treated
13 and removed.

14 Q. Right.

15 A. That's just an abbreviated
16 story like basically saying does he -- all
17 this thing happened but I don't know the
18 details for this report. It's not
19 required.

20 Q. Well, I guess what I'm saying
21 is you have two more blank lines in this
22 area so it could have been written in
23 there; is that fair to say?

24 MR. BERGMAN: Objection.

25 A. No, I -- the treated part and

1 Z. ZHENG

2 the removed part actually had nothing to do
3 with the accident itself. Like I said, I
4 don't need to write it down.

5 Q. Okay. And why didn't you
6 include in this narrative that you were
7 also alongside the bicyclist?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. Again, it has nothing to do
11 with the accident itself.

12 Q. Okay. And, in the accident
13 diagram why didn't you include a picture of
14 your vehicle one to two feet away from the
15 bicyclist?

16 MR. BERGMAN: Objection. You
17 can answer.

18 A. For the vehicle accident my
19 vehicle had to be involved in the accident
20 to be put in on the report which my vehicle
21 was never involved in the accident.

22 Q. Right. But let me ask you
23 something. Mr. Rodriguez says that you
24 were. So, when you're filling out an
25 accident report and two different parties

1 Z. ZHENG

2 are saying something different do you write
3 in the accident report what each party is
4 saying or you just pick a party and write
5 their story?

6 MR. BERGMAN: Objection. You
7 can answer.

8 A. No, I just write down what
9 happened for this accident report --

10 Q. I understand.

11 A. -- because I was there.

12 Q. Right. And so was Mr.

13 Rodriguez. So, he says that your vehicle
14 hit his bike. So, would that be something
15 that you would normally include in an
16 accident report?

17 A. For us to do an accident report
18 but the reason we put both parties
19 information or story is that basically we
20 we're on the scene. We have to put both
21 parties story. Let's say you say he said
22 then we put both story in there --

23 Q. Right.

24 A. -- to give the report to the --

25 Q. Right.

1 Z. ZHENG

2 A. But for this incident I was at
3 the scene.

4 Q. Right.

5 A. And, I'm not going to put a
6 story that didn't happen at the time.

7 Q. Okay. Um, but I guess Mr.
8 Rodriguez does think that happened?

9 MR. BERGMAN: Objection.

10 Q. So that wouldn't be something
11 that you would include?

12 MR. BERGMAN: Objection.

13 Q. Is that fair to say?

14 MR. BERGMAN: Objection. You
15 can answer.

16 A. No.

17 Q. Well, it's not included, right?

18 A. No, it's not included. It's
19 not unfair to say cause I was at the scene
20 with this.

21 Q. Okay. Now on the side of this
22 document there is like boxes 1, 2, 3, 4, 5,
23 do you see that?

24 A. Yes.

25 Q. Okay. What are those for and

1 Z. ZHENG

2 what are the numbers that you wrote inside
3 of those boxes?

4 A. There is, um -- I'm sure you
5 don't have it. There's a cover sheet for
6 the accident report. I don't know if you
7 have it now.

8 Q. Okay. And I don't have it and
9 I apologize for that --

10 A. Sorry.

11 Q. -- um, but I think I know what
12 you're talking about and we don't need to
13 go over that right now.

14 A. Okay.

15 Q. Um. Okay. So let me move onto
16 -- okay. Um --

17 MR. FETT: Can I have this
18 marked as Plaintiff's Exhibit 4.
19 This is the OMNI form -- I'm sorry 3,
20 4. This is the OMNI form arrest
21 report.

22 (Whereupon, the aforementioned
23 OMNI form arrest report was marked as
24 Plaintiff's Exhibit 4 for
25 identification as of this date by the

1 Z. ZHENG

2 Reporter.)

3 Q. Okay. Officer, if you can take
4 a look at this and let me know when you're
5 ready.

6 A. Okay. (Perusing document.)
7 I'm ready.

8 Q. Okay. Have you seen this
9 document before?

10 A. Yes.

11 Q. Okay. Aside from the day of
12 incident um, when have you seen this
13 document?

14 A. While I was during the review
15 and at the criminal court.

16 Q. Okay. Um, and, this is your
17 arrest report; is that fair to say?

18 A. Yes.

19 Q. Okay.

20 A. I -- I -- I'm sorry. This is a
21 sealed report that -- this is not an
22 original -- well, the informations correct
23 because it was like obtained from the
24 sealed information. What I'm saying is
25 like, my copy of the report doesn't have

1 Z. ZHENG

2 this top right here.

3 Q. Okay. Okay. Let me just
4 clarify the question. Um, so, if you go to
5 the third page.

6 A. Yes.

7 Q. So, you actually input this
8 information into your computer system to
9 come up with this OMNI form, arrest report;
10 is that right? Do you see where it says --

11 A. I'm sorry. I'm sorry. I
12 didn't pay attention. Sorry.

13 Q. Just looking at the very bottom
14 it says report entered by and it has your
15 name, Officer Zheng?

16 A. Uh, which part. I'm sorry.

17 Q. I'm sorry. On the third page
18 marked Def 3.

19 A. Okay.

20 Q. And then it says -- at the
21 very, very bottom it says report entered --

22 A. Yes.

23 Q. And it has your name. So does
24 that mean that you're the one that
25 physically typed the information into your

1 Z. ZHENG

2 computer and it generates this OMNI form
3 arrest report?

4 A. Yes.

5 Q. Okay. And so, that information
6 that you um, input where did you get that
7 information from?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. Um, what do you mean where did
11 I get it from.

12 Q. Did you get it from notes you
13 had written, did you get it from your memo
14 book, was it just your memory, where did
15 you get this information?

16 MR. BERGMAN: Same objection.
17 You can answer.

18 A. I'm sorry. Say that -- what do
19 you mean where did I get the information?
20 For -- for what information, like all the
21 um -- everything in here or.

22 Q. Yes.

23 A. Everything in here, um, just
24 based on what happened on the scene and his
25 personal information from his driver's

1 Z. ZHENG

2 license --

3 Q. Okay.

4 A. And um, his father's phone
5 call, I assume, I let him make a phone call
6 so that's why I had the information.

7 Q. Okay. And so when um -- and
8 when you are preparing this report did you
9 confer at all with Officer Chen?

10 A. No.

11 Q. Did you refer to your memo book
12 entry?

13 A. I guess. I'm sorry. Um, I had
14 a scratch copy of this report actually. I
15 think I did a scratch copy first before I
16 did that.

17 Q. And let me -- let me ask you
18 something else to just clarify it. Um, did
19 you do your memo book entry um, contemporan
20 -- contemporaneously as you were at the
21 scene, do you do it after the fact at the
22 precinct, when do you write your memo book
23 entry about the arrest of Mr. Rodriguez?

24 MR. BERGMAN: Objection to
25 form. You can answer.

1 Z. ZHENG

2 A. I don't remember exactly when I
3 entered.

4 Q. Okay. Um and so, going down
5 the front page of this document where it
6 says details.

7 A. Yes.

8 Q. Okay. Can you just read that
9 for me.

10 A. Sure. At TPO Defendant --
11 Defendant was observed riding a bike going
12 northbound on 114th Street against traffic
13 and failed to stop at a steady red light.
14 After uniform officer told Defendant stop
15 Defendant then fled the scene on his bike
16 while running away -- oh, oh, I'm sorry,
17 while running away, excuse me, from AO.

18 Defendant did hit a parked car,
19 fall off of his bike, scratch his right
20 elbow. Upon arrest Defendant did flair his
21 arm refused to be handcuffed during SILA.
22 Defendant did have a 12 zip bag of
23 marijuana in his backpack.

24 Q. Okay. So, um, let me just go
25 into that a little bit. Um, the part where

1 Z. ZHENG

2 you're saying that he's driving against
3 traffic on 104th Street.

4 A. It was -- yeah, it was supposed
5 to 104 street.

6 Q. Oh, I'm sorry. You're right
7 104 --

8 A. There's a typo right there. It
9 says 114th.

10 Q. Okay. And, um, I don't know if
11 I asked you this before, um, how many feet
12 from the intersection was Mr. Rodriguez
13 driving against traffic on 104th Street?

14 MR. BERGMAN: Objection. You
15 can answer.

16 A. I'm sorry. Are you asking
17 before he crossed the intersection or after
18 he crossed.

19 Q. After.

20 A. Um, approximately two car
21 lengths.

22 Q. Okay.

23 A. One to two car lengths.

24 Q. Okay. And um, I think this is
25 -- when you say Defendant did flair his

1 Z. ZHENG

2 arms, what do you mean by that?

3 A. Basically he moved his arms a
4 little bit like harder for me no handcuff
5 right away.

6 Q. Okay. And so, um, is that why
7 he's been charged with resisting arrest?

8 A. Yes.

9 Q. Okay. Um, so describe for me
10 exactly what he did that you considered
11 resisting?

12 A. When -- for a normal person for
13 me to handcuff him all he has to do is turn
14 his body -- turn his hand to -- back to his
15 back --

16 Q. Okay.

17 A. And I can handcuff each arm
18 that's it.

19 Q. Okay.

20 A. Mr. Rodriguez at the time, when
21 I started first to handcuff, I grabbed his
22 first arm, handcuffed his first arm that
23 took me about another I don't know how long
24 to handcuff the second one because he keep
25 turning his body --

1 Z. ZHENG

2 Q. Okay.

3 A. And either towards my partner,
4 either towards me but he's just I guess
5 twisting around a little bit.

6 Q. Okay.

7 A. For me to -- it's hard for me
8 to handcuff him and me at the time I
9 considered it resisting arrest.

10 Q. Okay. Did you ever ask him why
11 he was doing that?

12 A. He was talking a lot. I don't
13 remember what he was saying --

14 Q. Okay.

15 A. But I know he was saying
16 something.

17 Q. Okay. Did he appear to be in
18 pain?

19 A. Not at that time more angry, I
20 think.

21 Q. Okay. Um, did you ever think
22 that since he had just fallen off a bike it
23 might not be the best time to handcuff him?

24 A. No.

25 Q. Okay. Why not?

1 Z. ZHENG

2 A. Our first -- our procedure is,
3 first thing handcuff the guy for our own
4 safety --

5 Q. Okay.

6 A. And also uh, forbid him flee
7 more.

8 Q. Okay. And, was there anything
9 else he did that you considered resisting?

10 A. Just -- just twist his body and
11 twist his arm. Nothing else.

12 Q. Okay. And um -- and you also
13 charged him with disorderly conduct?

14 A. Yes.

15 Q. So explain to me what he was
16 doing that you believe constituted
17 disorderly conduct?

18 A. Let's see, for him fleeing the
19 scene he couldn't have the condition for me
20 and him both also for the people, you know,
21 uh, on the street at the time. It's 4 --
22 it's 4:40 in the afternoon at the very busy
23 intersection at the time.

24 After fleeing the scene and
25 falling off the back, he created the people

1 Z. ZHENG

2 gathering uh, for cars to top in the
3 opposite direction, in my direction.
4 Basically, that's how I consisted with the
5 disorderly conduct charge.

6 Q. Okay. So because he fell off a
7 bike and struck a car and fell to the
8 ground um, he created a scene?

9 MR. BERGMAN: Objection. You
10 can answer.

11 A. Yes.

12 Q. Okay. And, you think he
13 stopped traffic?

14 A. He slowed down traffic for
15 people to -- stopping to look what
16 happened.

17 Q. Okay. How about you pulling up
18 alongside of his bicycle were you in anyway
19 obstructing traffic?

20 A. I don't know.

21 Q. Okay. Now, if you go to the
22 next page of this document. I'm sorry
23 let's go to the third page of this
24 document.

25 A. Okay.

1 Z. ZHENG

2 Q. Okay. And um, you see the area
3 where it of has arresting officer and then
4 it says your name?

5 A. Yes.

6 Q. Okay. And it says force used
7 and it says no?

8 A. Yes.

9 Q. Okay. What does that mean?

10 A. I didn't beat him up.

11 Q. Oh, that's about whether or not
12 you used force?

13 A. Yes.

14 Q. Okay. Um -- okay. And where
15 it says that Sergeant Cantalino approved
16 the -- was he the approving supervisor?

17 A. Yeah, I filled out a scratch
18 copy and give him to sign because he was
19 the desk officer.

20 Q. Okay. So let me look at the
21 scratch copy.

22 MR. FETT: So, can I have this
23 marked as Plaintiff's Exhibit 5.
24 This is the online booking system
25 arrest worksheet.

1 Z. ZHENG

2 (Whereupon, the aforementioned
3 arrest worksheet was marked as
4 Plaintiff's Exhibit 5 for
5 identification as of this date by the
6 Reporter.)

7 THE REPORTER: Here you go.

8 MR. FETT: Thank you.

9 Q. Um, so Officer, just take a
10 look at Plaintiff's Exhibit 5 and let me
11 know when you're ready.

12 A. Sure. I'm ready.

13 Q. Okay. Um, let's start from the
14 day of the incident, have you ever seen
15 this document before?

16 A. Yes.

17 Q. Okay. When have you seen it?

18 A. Um, during -- in criminal
19 court.

20 Q. Okay. And is this your
21 handwriting on the document?

22 A. Yes.

23 Q. Okay. When on the night of
24 August 13, did you complete this report?

25 A. Sometime after I came back to

1 Z. ZHENG

2 the precinct.

3 Q. Okay. And um, on that first
4 page um, towards the top, the area where it
5 says arresting officer, you see on the
6 left side the box is titled arresting
7 officer and it has your information in it?

8 A. Yes.

9 Q. Okay. Um, you see where it
10 says force used?

11 A. Yes.

12 Q. Okay. What did you check off
13 there?

14 A. Yes.

15 Q. Okay. Why did you check off
16 yes there?

17 A. I have no idea.

18 Q. Okay. And then, next no that
19 it says type and it says physical force?

20 A. Yes.

21 Q. Okay. Why did you check that
22 off?

23 A. The screen.

24 Q. I'm sorry.

25 A. It's um, when I -- what I saw

1 Z. ZHENG

2 while doing the resisting arrest --

3 Q. Uh-huh.

4 A. I had to hold --hold onto him
5 that's where the -- the second part of
6 physical force says, restrain at the time.

7 Q. Okay.

8 A. That means I was trying to
9 restrain him to handcuff him.

10 Q. Okay. You're saying you used
11 force to handcuff him?

12 A. Right but it wasn't like I was
13 using tremendous amount of force. I had to
14 use some energy to cuff him.

15 Q. Okay.

16 A. That's what a force means,
17 right.

18 Q. Okay. And then why did change
19 it on the OMNI form report to no?

20 A. To be honest with you, like I'm
21 just looking at this report right now like
22 you said intersection I wrote 114 Street,
23 again. Also Astoria I wrote 114th Street
24 again. There was so many things going on
25 at the same time one night I possibly just

1 Z. ZHENG

2 made a mistake.

3 Q. Okay. Were you shaken up by
4 what had happened to Mr. Rodriguez that
5 night?

6 A. Define shaken up.

7 Q. Were you upset by it?

8 A. Yes.

9 Q. Okay. Why?

10 A. I was doing my job but know
11 doing the right thing might not be the
12 right thing.

13 Q. Okay. Why might it not be the
14 right thing?

15 A. Because the guy just accused me
16 of saying I hit him and now sergeant call
17 investigation and IAB for me for the first
18 time in my career. I think I'm entitled to
19 be a little shaken up.

20 Q. Okay. Did you feel nervous?

21 A. Not nervous more like upset.

22 Q. Okay. Did you ever talk to
23 Officer Chen about how you felt?

24 A. No. Wait. I'm sorry. Just to
25 clarify, the um, the three years after this

1 Z. ZHENG

2 incident not long ago we had this Intel
3 saying after you guys made a paper and all
4 that stuff.

5 MR. BERGMAN: Hold on.

6 Objection. Can we --

7 MR. FETT: No, no, let him
8 finish.

9 MR. BERGMAN: It -- we're
10 objection to it on security grounds.
11 We're instructing him not to answer.
12 A conversation that uh --

13 MR. FETT: Can we go off the
14 record.

15 THE VIDEOGRAPHER: 3:18 P.M.
16 going off the record.

17 (Whereupon, an off-the-record
18 discussion was held.)

19 THE VIDEOGRAPHER: Back on
20 record. 3:20 P.M.

21 Q. Okay. So um, Officer Zheng
22 going back to Plaintiff's Exhibit 5 um, can
23 you read for me the narrative section of it
24 at the bottom of the page?

25 A. Yes. At TPO Defendant was

1 Z. ZHENG

2 observed riding a bike going northbound on
3 114th Street against traffic and failed to
4 stop at a scheduled red light. After
5 uniform officer told him to stop at
6 location Defendant then fled the scene on
7 his bike.

8 While running away from AO
9 Defendant did hit the parked car fall off
10 the bike scratched his elbow. Defendant
11 did flair his arm and refused to be
12 handcuffed while -- while stopped. SILA.
13 He was in possession of 12 zip bag
14 marijuana.

15 Q. Okay. And um, just to clarify
16 so SILA is search incidental lawful arrest?

17 A. Yes.

18 Q. Okay. And um, where was that.
19 It's unclear from this but where was that
20 search conducted of the backpack?

21 A. It's, it's, its, not on this
22 report.

23 Q. No but I'm just saying because
24 you wrote search SILA 12 zip so I'm just
25 wondering where was the search conducted?

1 Z. ZHENG

2 A. At a precinct. I'm sorry.

3 Q. Okay. And so then just going
4 to the second page it's Bate Stamped Def
5 62?

6 A. Ah-huh.

7 Q. Okay. And so um, this first
8 box that's called perpetrator, um, there's
9 a box called physical force, do you see
10 that?

11 A. Yes.

12 Q. Okay. And um, what did you
13 check off?

14 A. Yes. Uh, used.

15 Q. Okay. And -- and, why did you
16 do that?

17 A. I was still referring to the
18 handcuffed part actually so using the force
19 but I think this physical force means if
20 the perp used the physical force.

21 Q. So, um, are you saying that was
22 a mistake?

23 A. Yes.

24 Q. Okay. So you didn't mean that
25 Mr. Rodriguez was using force?

1 Z. ZHENG

2 A. No.

3 Q. Okay.

4 A. Not at all.

5 Q. Okay. And so then, just moving
6 down that page where it says MO asks
7 questions offered assistance and you
8 checked that off?

9 A. Yes.

10 Q. Okay. And so describe for me
11 the assistance that you offered to Mr.
12 Rodriguez?

13 A. Called the ambulance for him.

14 Q. Okay. And um, that means back
15 at the precinct?

16 A. Yes.

17 Q. Because you didn't do that on
18 the scene, right?

19 A. No.

20 Q. Okay.

21 MR. FETT: Can I have this
22 marked um, as Plaintiff's Exhibit 8.
23 Um.

24 MR. BERGMAN: I think that's 6.

25 MR. FETT: Six. Can I have

1 Z. ZHENG

2 this marked -- Forgive me. Can I
3 have this marked as Plaintiff's
4 Exhibit 6 this is OLPA form O-L-P-A.

5 (Whereupon, the aforementioned
6 OLPA form was marked as Plaintiff's
7 Exhibit 6 for identification as of
8 this date by the Reporter.)

9 MS FETT: Do you have a copy.

10 MR. BERGMAN: Yes.

11 MR. FETT: Thank you.

12 THE REPORTER: You're welcome.

13 Q. Officer, please take a look at
14 Plaintiff's Exhibit 6 and let me know when
15 you're ready.

16 A. Sure. Yes, I am ready.

17 Q. Have you ever seen this
18 specific OLPA before?

19 A. This one?

20 Q. Yes.

21 A. No.

22 Q. Okay. Do you know what an OLPA
23 is?

24 A. I don't know what it stands for
25 but I seen this page before.

1 Z. ZHENG

2 Q. Okay. What's your
3 understanding of what this document is?
4 Generally. Not this specific one from Mr.
5 Rodriguez?

6 A. Oh, what his status at court.

7 Q. Okay. So, were you involved in
8 way with inputting any information into
9 this document in connection with Mr.
10 Rodriguez?

11 A. No.

12 Q. Um, now, see at the very top of
13 the document where it says status medical
14 expedite?

15 A. Okay.

16 Q. What does medical expedite
17 mean?

18 MR. BERGMAN: Objection.

19 A. I'm not sure?

20 Q. Okay. Thank you.

21 MR. FETT: Can I have this
22 marked as Plaintiff's Exhibit 7.
23 This is the prisoner pedigree card.
24 (Whereupon, the aforementioned
25 pedigree card was marked as

1 Z. ZHENG

2 Plaintiff's Exhibit 7 for
3 identification as of this date by the
4 Reporter.)

5 THE REPORTER: Prisoner what,
6 medical --

7 MR. FETT: I'm sorry. Prisoner
8 pedigree card.

9 THE REPORTER: Oh, prison.

10 Q. Thank you. Um, officer, just
11 take a look at this and let me know when
12 you're ready.

13 A. Yes. I'm ready.

14 Q. Okay. Um, have you seen this
15 document before?

16 A. Yes.

17 Q. Okay. Is this your handwriting
18 on the document?

19 A. Partial.

20 Q. What part of the -- what
21 handwriting is yours?

22 A. Okay. Um, my name --

23 Q. Okay.

24 A. -- on top, shield number, tax
25 number, command, squad, uh, location of

1 Z. ZHENG

2 arrest, primary charge, other charges and
3 the time of arrest.

4 Q. Okay.

5 A. And I'm sorry uh, the fund and
6 funds returned.

7 Q. Okay. And um, where would you
8 have gotten all of this information from?

9 MR. FETT: Let me strike that
10 sorry. Find a new question.

11 Q. In terms of Mr. Rodriguez' home
12 address and that kind of thing and his
13 birthday where would you get that
14 information from?

15 A. Beside those.

16 Q. No, that information?

17 A. Oh, um, that's not my
18 handwriting so I have no idea.

19 Q. Oh, okay.

20 A. Sorry.

21 Q. No, that's okay. Um, so where
22 it says Heins Rodriguez and it says his
23 address, date of birth that's not your
24 handwriting?

25 A. That's not my handwriting.

1 Z. ZHENG

2 Q. Oh, okay. Do you know whose
3 handwriting that is?

4 A. I really have no idea.

5 Q. Okay. And then you see down
6 the document where it says supervisor and
7 Sergeant Starrantino?

8 A. Yes.

9 Q. Okay. Do you know why he was
10 the verifying officer instead of Sergeant
11 Cantalino?

12 A. Because he was the one on the
13 scene.

14 Q. Okay. Um, you see where it
15 says medical attention requested and then
16 it's checked off no?

17 A. Yes.

18 Q. Is that you checking it off or
19 someone else as far as --

20 A. I'm not even sure.

21 Q. Okay. Um and, so Mr. Rodriguez
22 says that he did request medical attention,
23 um so --

24 MR. FETT: Let -- Let's strike
25 that.

1 Z. ZHENG

2 Q. When would this pedigree card
3 have been filled out at what point in the
4 process?

5 A. When he was sitting in front
6 the desk.

7 Q. Okay. So, he's brought back to
8 the precinct he's standing in front of
9 Sergeant Cantalino and that's when this
10 cards filled out?

11 A. Yes.

12 Q. Okay. And so um, whoever
13 filled this out um, would have asked Mr.
14 Rodriguez at that point, do you need
15 medical attention, is that how that would
16 work?

17 A. Supposed to, yes.

18 Q. Did you ever hear anyone ask
19 Mr. Rodriguez when he was standing at the
20 desk if he required medical treatment?

21 A. No.

22 Q. Did you ever hear Mr. Rodriguez
23 request it?

24 A. I don't remember.

25 Q. And then next box over where it

1 Z. ZHENG

2 says RMA, what does that mean?

3 A. Refuse medical attention.

4 Q. Okay. And again, do you know
5 whether or not that's you that checked off
6 the yes?

7 A. Not sure.

8 Q. Okay. Would this also have
9 been done at the desk when he is being
10 presented?

11 MR. BERGMAN: Objection.

12 A. Yes.

13 Q. Okay. And um, did you ever
14 here Mr. Rodriguez refusing medical
15 attention when he was standing in front of
16 the desk?

17 A. No.

18 Q. Okay. And then, the box where
19 it says physical, mental condition normal?

20 A. Yes.

21 Q. Okay. Is that your
22 handwriting?

23 A. No.

24 Q. Okay. Do you know whether
25 that's Sergeant Cantalino's handwriting?

1 Z. ZHENG

2 A. I don't know.

3 Q. Okay. Do you know whether it's
4 Sergeant Starrantino's handwriting?

5 A. I don't think so, no. I don't
6 know.

7 Q. Okay. Um -- okay.

8 MR. FETT: Can we have this
9 marked as Plaintiff's Exhibit 8.

10 (Whereupon, the aforementioned
11 medical treatment form was marked as
12 Plaintiff's Exhibit 8 for
13 identification as of this date by the
14 Reporter.) This is a medical
15 treatment of prisoner form. Medical
16 treatment of prisoner form.

17 Q. So, Plaintiff's Exhibit 8 is a
18 two pages. It's a stamped Def 528 and also
19 Def 94. Um, both documents are called the
20 medical treatment of prisoner form.

21 So, I'll just ask you to take a
22 look at these and let me know when you're
23 ready.

24 A. I'm ready.

25 Q. Okay. Um, so I'm just going to

1 Z. ZHENG

2 represent that this appears to be the same
3 document except for the handwritten note at
4 the bottom of Def 528.

5 A. Okay. This one?

6 Q. Yes. Exactly.

7 A. Okay.

8 Q. Okay. Um, and I just want to
9 know, looking at um, let's just look at
10 528, do you see your handwriting anywhere
11 on that document?

12 A. The top portion where -- where
13 is um, 1, 2, 3. First three lines.

14 Q. First three lines, okay. You
15 know, what I apologize. I'm going to go
16 back to 94, Def 94 because it's a better
17 copy.

18 A. Okay. Yes.

19 Q. So um, the first three lines
20 are your handwriting?

21 A. Yes.

22 Q. Okay. And do you --

23 MR. FETT: Strike that.

24 Q. Did you complete this -- these
25 first three lines in the precinct?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. Do you remember when you
4 did that?

5 A. Before he leave with the
6 ambulance.

7 Q. Okay. Now um, I believe you
8 said you don't know if you called the
9 ambulance or someone else; is that right?

10 A. I don't remember who called but
11 -- I thought I called but I don't remember
12 who called.

13 Q. Okay. Um, why did you call the
14 ambulance?

15 MR. BERGMAN: Objection. You
16 can answer.

17 A. He uh -- he request it.

18 Q. Okay. So he did request it?

19 A. He uh, scratched his arm and I
20 think he -- I think he request it.

21 Q. Okay. And so, do you remember
22 what he said?

23 MR. BERGMAN: Objection. You
24 can answer.

25 A. No.

1 Z. ZHENG

2 Q. Do you remember how long after
3 he got into the precinct he requested the
4 medical treatment?

5 A. You mean how long he was in the
6 precinct until he -- -

7 Q. Requested it. Made the
8 request.

9 A. Ten, fifteen minutes.

10 Q. Okay. And so, when it's
11 requested like that do you have to ask a
12 supervisor to call an ambulance or you can
13 just do it?

14 A. I can just do it.

15 Q. So, um, and are you required to
16 fill out a medical treatment of prisoner
17 form when a prisoner is getting medical
18 treatment?

19 A. Yeah, before he goes to the
20 hospital.

21 Q. Okay. Um and so, once you fill
22 out those first three lines what happens to
23 this document?

24 A. I gave it to Officer Debonay
25 who was going to the hospital with Mr.

1 Z. ZHENG

2 Heins Rodriguez --

3 Q. Okay.

4 A. And that's it. I'm -- you know
5 what I'm sorry. Not the top three lines
6 I'm sorry. Just in the remarks --

7 Q. Yes.

8 A. Part top two lines are mine.

9 Q. Okay. And so, can you read
10 what you wrote there?

11 A. Sure. At TPO Defendant did
12 fell off bike while away -- while running
13 from police, scratch his right elbow. So,
14 right elbow.

15 Q. Okay. And um, and then, do you
16 know who wrote that third line?

17 A. No.

18 Q. Okay. Do you know whether or
19 not that would be a medical care provider
20 from the hospital, another officer or
21 something else?

22 A. I don't know.

23 Q. Okay. Um, now um, the line
24 right below escort officer where it says
25 prisoner request requires medical aid?

1 Z. ZHENG

2 A. I'm sorry.

3 Q. It's?

4 A. Yeah. Oh yeah, prisoner
5 refused medical aid.

6 Q. Um, no um, right before that.
7 The box to the left of that.

8 A. Okay. I'm sorry. Request and
9 require medical aid.

10 Q. Exactly. Um, is this your
11 handwriting on this line?

12 A. I'm --I'm not sure.

13 Q. Do you know -- and what's
14 checked off in this box, for prisoner
15 request slash requires medical aid.

16 A. I don't know. I don't know why
17 he checked it, no.

18 Q. So if there's a -- it's crossed
19 out -- it's checked off as no, right?

20 A. Right.

21 Q. Okay. And I think you already
22 answered it. Do you know why that would
23 have been checked off?

24 A. Maybe he didn't want to --
25 maybe he didn't require it which is because

1 Z. ZHENG

2 it's scratched arm I have to request. If
3 he didn't request it. You know what, I
4 don't know.

5 Q. Okay. Um -- okay. So then,
6 and then if you go over to um, the next box
7 over it says prisoner refused medical aid
8 and it says, no. Um --

9 A. He didn't sign the paper
10 either. I mean he probably just -- sorry.
11 I don't know. He didn't sign it either so.

12 Q. Right. And so, um, is that
13 required that the prisoner sign this form?

14 A. Yes.

15 Q. Okay. And so, um, do you know
16 why Mr. Rodriguez didn't sign the form?

17 A. No idea.

18 Q. Okay. Um, have you ever had a
19 prisoner refuse to sign a form?

20 A. Uh, yes.

21 Q. Okay. Have you ever had a
22 prisoner refuse to sign a medical treatment
23 and prisoner form?

24 A. Yes.

25 Q. Okay. And so, under those

1 Z. ZHENG

2 circumstances um, do you make a note where
3 the signature is, do you -- do you write
4 anything letting anyone know that they
5 refused or do you just leave it blank?

6 A. Just leave it blank.

7 Q. Okay. Do you know whether or
8 not Mr. Rodriguez refused to sign the form?

9 A. No.

10 Q. Okay. Um, did you ever
11 interrogate Mr. Rodriguez at the precinct?

12 A. No.

13 Q. Okay. Did you ever observe any
14 officers interrogating him at the precinct?

15 A. No.

16 Q. Okay. And so then the bottom
17 half of this form marked Def 94, is any of
18 that your handwriting?

19 A. No.

20 MR. FETT: Can I have this
21 marked as Plaintiff's Exhibit 8.

22 THE REPORTER: 9.

23 MR. FETT: 9.

24 THE WITNESS: Oh, I'm sorry, 9.

25 MR. FETT: Can I have this

1 Z. ZHENG

2 marked as Plaintiff's Exhibit 9.

3 These -- these are photographs taken
4 of Plaintiff at the hospital and they
5 are Bate stamped Def 1167-1173.

6 (Whereupon, the aforementioned
7 photographs were marked as
8 Plaintiff's Exhibit 9 for
9 identification as of this date by the
10 Reporter.)

11 Q. Officer, if you could take a
12 look through Exhibit 9 and just let me know
13 when you're ready.

14 A. I'm ready.

15 Q. Okay. Um, just looking at
16 these pictures in Exhibit 9 have you ever
17 seen these pictures before?

18 A. No.

19 Q. Okay. Um, so just skipping to
20 the page marked uh, Def 1170?

21 A. Yes.

22 Q. Okay. Um, so I'll represent to
23 you that that's Mr. Rodriguez. Does that
24 look like the gentlemen that you saw
25 falling off his bike on August 13, 2015?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. Um, and actually looking
4 at that page Def 1170 um, did you see that
5 injury that's been photographed in that
6 picture on his right arm. Did you see that
7 at the scene?

8 MR. BERGMAN: Objection. You
9 can answer.

10 A. At the scene, no.

11 Q. Okay. Um, was he wearing a
12 jacket?

13 A. No. Um, no. I don't remember.

14 Q. Okay. Um, you've been
15 describing during the deposition a scratch
16 on his arm, can you go through the pictures
17 and tell me if you see the scratch on his
18 arm that you been describing?

19 A. Def 001169.

20 Q. Okay. So that's what you saw
21 at the scene?

22 A. No, at the precinct.

23 Q. At the precinct?

24 A. Yes.

25 Q. You didn't see that at the

1 Z. ZHENG

2 scene?

3 A. I don't remember I seen that at
4 the scene.

5 Q. Okay. If you would have seen
6 that injury at the scene would you have
7 called an ambulance?

8 A. Possible.

9 Q. Okay. Um, what does that mean
10 "possible"?

11 A. Yes. Yes, I would.

12 Q. Okay. Looking at Def 1167 and
13 1168.

14 A. Yes.

15 Q. Did you ever see either of
16 those injuries either at the scene or at
17 the precinct?

18 A. No.

19 Q. So when your arresting someone
20 that you've just seen have some type of
21 accident um, is there any responsibility on
22 your part to um, make sure they're not
23 injured, uh, get them medical treatment if
24 they needed, do you have any
25 responsibility?

1 Z. ZHENG

2 A. If I see a visible injury, yes.

3 Q. Just if you see a visible
4 injury?

5 A. Right.

6 Q. Okay. Um, did you ever do like
7 a physical inventory of Mr. Rodriguez at
8 the scene to make sure he wasn't injured?

9 A. I'm not a doctor. I'm not --
10 no.

11 Q. Okay. Um, I know you're not a
12 doctor, what I'm asking is, um, did you
13 ever check him out, see if he had any
14 injuries?

15 A. I don't. I don't think so I
16 did.

17 Q. Okay. Um --

18 MR. FETT: Can I have these
19 marked as Plaintiff's Exhibit 10.
20 These are photographs of um, the
21 vehicle that Mr. Rodriguez struck.
22 It's Def 988 through 989.

23 (Whereupon, the aforementioned
24 photographs were marked as
25 Plaintiff's Exhibit 10 for

1 Z. ZHENG

2 identification as of this date by the
3 Reporter.)

4 Q. Um, so Officer, just take a
5 look at these and let me know when you're
6 ready.

7 A. Yes.

8 Q. Okay. So describe for me what
9 we're looking at in this uh, picture in uh
10 -- I'm sorry, in Def 988.

11 A. Scratch by his, I guess, from
12 side bumper.

13 Q. Okay. Is this the vehicle that
14 um, that Mr. Rodriguez struck with his
15 bicycle?

16 A. I'm sorry. I don't remember
17 exactly what car look like there is no
18 plate on the vehicle.

19 MR. BERGMAN: Just answer the
20 question.

21 A. I have no idea.

22 Q. Okay. Um, did you take these
23 pictures?

24 A. No.

25 Q. Okay. Do you know who took the

1 Z. ZHENG

2 pictures?

3 A. No idea.

4 Q. Looking at Def 989 I believe
5 you had said earlier that you thought that
6 Mr. Rodriguez' bike struck the front of the
7 parked vehicle?

8 A. The driver's side door of the
9 vehicle.

10 Q. Okay. Did he also strike the
11 front or No?

12 A. Yes, it's on the accident
13 report. I'm sorry.

14 Q. That's okay.

15 A. To be clarify, I don't remember
16 exactly what he hit.

17 Q. Okay.

18 A. But I was just referring to
19 when you asked me about an accident report
20 where the damaged code said 12 which means
21 exactly location that we're looking at
22 right now.

23 Q. Okay. So, if I -- I'm going to
24 represent that that is the parked car that
25 Mr. Rodriguez struck with his bike. So do

1 Z. ZHENG

2 you see on Def 989 where he might have, I
3 guess damaged or scratched the front of the
4 car.

5 A. I'm sorry. Say that again. So
6 sorry.

7 Q. Do you see anywhere in this
8 picture 989 --

9 A. 989 I'm sorry.

10 Q. Yeah. Where Mr. Rodriguez bike
11 or body might have damaged or made a mark
12 on the vehicle?

13 A. No, it was never on the
14 accident report saying that it was in the
15 front of the car.

16 Q. Okay. So it's just on the
17 driver's side?

18 A. On the driver's side door plus
19 the front panel is like it -- the part
20 we're talking about right here.

21 Q. Oh, I see.

22 A. On the ADA. I'm sorry.

23 Q. So we don't actually have a
24 picture of um, in the next exhibit, in
25 Exhibit 10, we don't have a picture of the

1 Z. ZHENG

2 driver's side door where you said there is
3 damage?

4 A. No.

5 Q. Okay.

6 MR. FETT: So we will call for
7 production of any photographs that
8 were taken of the driver's side door
9 of this vehicle.

10 MR. BERGMAN: Follow up in
11 writing but I don't believe we have
12 them. Just follow-up in writing.

13 Q. I'm going to show you --

14 MR. FETT: Strike that.

15 Q. I'm going to show you um --

16 MR. FETT: I'm going to have
17 this marked as Plaintiff's Exhibit
18 11. This is a packet of pictures,
19 Bate stamped, Def 1174-1199.

20 (Whereupon, the aforementioned
21 pictures was marked as Plaintiff's
22 Exhibit 11 for identification as of
23 this date by the Reporter.)

24 THE WITNESS: Sorry. Can we
25 stop for a second to use the bathroom

1 Z. ZHENG

2 real quick.

3 MR. FETT: Yes, sure.

4 THE WITNESS: Sorry about that.

5 THE VIDEOGRAPHER: 3:44 P.M.

6 going off record.

7 (Whereupon, an off-the-record
8 discussion was held.)

9 THE VIDEOGRAPHER: Back on
10 record 3:47 P.M.

11 Q. So Officer, if you can just
12 take a look at these pictures and let me
13 know when you're ready.

14 A. Sure.

15 Q. Have you ever seen any of these
16 pictures before?

17 A. No.

18 Q. Okay. Um, looking at the very
19 first picture on Def 1174, um, does that
20 refresh your recollection of the bike that
21 Mr. Rodriguez was uh, riding on August 13,
22 2015?

23 A. Yes.

24 Q. Okay. So, that's what his bike
25 looked like?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. Um, do you know who took
4 these pictures?

5 A. No. Sorry.

6 Q. Do you know why the pictures
7 were taken?

8 A. No.

9 Q. Okay. Um, now um, going to Def
10 1178.

11 A. Yes.

12 Q. Okay. Um, and that question
13 was for all these pictures. Do you know
14 who took all of these pictures?

15 A. No. Sorry.

16 Q. Okay. Uh, do you know when any
17 of them were taken?

18 A. No.

19 Q. Okay. And looking at Def 1178
20 do you know who is pictured in that
21 photograph?

22 A. Ha, not 100 percent sure. No.

23 Q. Do you know where whether it's
24 a police officer or not?

25 A. I don't want to guess actually

1 Z. ZHENG

2 but it -- it looks like Lieutenant Thames.
3 Our CO Lieutenant. It looks like him. I'm
4 not 100 percent sure of that.

5 Q. Okay. Thames.

6 A. Thames.

7 Q. How do you spell that?

8 A. It's T, you know, it's pretty
9 hard to spell actually. T-H-A-M-E-S, I
10 think. I'm not 100 percent sure.

11 Q. Okay. Um, and whose vehicle?
12 What vehicle is that picture?

13 A. That's the uh, that's the car I
14 was driving that night.

15 Q. Okay. And uh -- and so the
16 mirror, the mirror that's damaged that
17 we're looking at.

18 A. Yes.

19 Q. Okay. Um, how was that
20 damaged?

21 A. I have no idea.

22 Q. Okay. Um, so I think you
23 testified earlier that that's not from Mr.
24 Rodriquez' bike or his person; is that
25 right?

1 Z. ZHENG

2 A. It was damaged before we got in
3 the car that morning.

4 Q. Okay. And that's what it
5 looked like that morning?

6 A. Yes.

7 Q. Okay. And so, aside from your
8 memo book would there be anywhere else that
9 it would be noted that this um -- this
10 vehicle had damage to it?

11 A. No.

12 Q. Okay. Do you know whether the
13 vehicle 447 is still damaged like this?

14 A. I have no idea. I haven't seen
15 that car for I don't know how long.

16 Q. Okay. Since August 13, 2015,
17 have you ever seen that car again?

18 A. Yes.

19 Q. Okay. Um, did you ever use it
20 again?

21 A. Yes.

22 Q. Okay. And when you used it
23 again did it have the damage to it?

24 A. I don't remember.

25 Q. Okay. Um, do you know what

1 Z. ZHENG

2 that officer was doing in that picture?

3 A. No idea.

4 Q. Okay. Um now, going to the
5 next page 1179. Now on the driver's -- uh,
6 forgive me, on the passenger's side door I
7 can't tell if that's a scratch or if that's
8 a slash from the camera. Do you remember
9 if the car had any kind of scratch on the
10 driver's side door?

11 A. I can't guarantee you those --
12 I'm 100 percent sure it was a flashing
13 right here.

14 Q. Okay. And then turning to - to
15 Def 1180.

16 A. Yep.

17 Q. Okay. I see marks on the um,
18 passenger side door um, right here. Let me
19 show you.

20 A. (Indicating.)

21 Q. Exactly. So it's kind of um,
22 the upper quarter of the I guess. Do you
23 know what those scratches were from?

24 A. From us leaning on the door
25 with the gun belts.

1 Z. ZHENG

2 Q. How do you know that?

3 A. It's been there. We always
4 lean on doors with our gun belts because
5 what we do when we're standing out on
6 enforcement while we're looking for
7 seatbelts --

8 Q. Okay.

9 A. We are just leaning on the gun
10 belts on the car.

11 Q. Okay. How do you know that's
12 not from um, Mr. Rodriguez' bike or his
13 person?

14 A. I don't know.

15 Q. Okay. Um, and then see at the
16 bottom of the passengers side door.

17 A. Yes.

18 Q. I just can't tell what that is.
19 Is that a scratch or is that writing?

20 A. Which one are you looking at?

21 Q. Um --

22 A. That's called the vehicle name.
23 What are they called, Fusion.

24 Q. Okay. Thank you. Or Hybrid?

25 A. Hybrid. Hybrid. Oh, second

1 Z. ZHENG

2 picture has it. I'm sorry.

3 Q. Okay. Do you know why the --
4 I think I already asked you this on 1181
5 and 1182 --

6 A. Yes.

7 Q. If your car never struck Mr.
8 Rodriguez do you know why they're taking
9 pictures of the driver's side -- of the
10 passenger side door?

11 MR. BERGMAN: Objection. You
12 can answer.

13 A. No idea.

14 Q. Okay. And then moving onto um,
15 1184 --

16 A. Yes.

17 Q. -- through 1188. Is that still
18 your vehicle that's in those pictures?

19 A. Yes.

20 Q. On Def 1195 --

21 A. Yes.

22 Q. So again, this is going to be
23 Mr. Cevallos' vehicle?

24 A. Yes.

25 Q. Um, and this looks like part of

1 Z. ZHENG

2 the hood. Um, did Mr. -- did you ever
3 observe Mr. Rodriguez strike the hood of
4 vehicle with either his person or the bike?

5 A. I don't remember.

6 Q. Okay. And then um, turning to
7 Def 1197.

8 A. Yes.

9 Q. Um, so it look to me like
10 whoever the person is in this picture they
11 have Mr. Rodriguez' bike um, up against
12 your vehicle; is that fair to stay?

13 A. Yes.

14 Q. Okay. Um, do you know why
15 their doing this?

16 MR. BERGMAN: Objection.

17 A. No idea.

18 Q. Okay. Do you have any kind of
19 a guess why they might be doing this?

20 A. No.

21 Q. Okay. Um, do you think that
22 they're trying to determine whether or not
23 his bicycle made contact with your vehicle?

24 A. I have no idea.

25 Q. Okay. Same question for the

1 Z. ZHENG

2 next page. Do you know why --

3 A. I'm sorry. Which page is that?

4 Q. 1198.

5 A. Yes.

6 Q. Do you know why this individual
7 seems to be reenacting, you know the bike
8 next to the car. Do you know why that's
9 being done?

10 A. I can't guess anything that.

11 Q. Okay. Same for 1198, do you
12 know why their doing that?

13 A. No.

14 MR. BERGMAN: Sorry. Do you
15 mean 1199?

16 MR. FETT: Yes, 1199.

17 Q. Did you ever talk to um, did
18 you say CO Thames?

19 A. CO Thames, yes.

20 Q. Did you ever talk to him about
21 what had happened on August 13, 2015?

22 A. No.

23 Q. Okay. Did he ever ask you any
24 questions about what happened?

25 A. No.

1 Z. ZHENG

2 Q. Um --

3 MR. FETT: Can I have this
4 marked as Plaintiff's Exhibit.

5 MR. BERGMAN: 12.

6 MR. FETT: 12. Um, this is a
7 memo uh, dated August 14, 2015.

8 (Whereupon, the aforementioned
9 memo was marked as Plaintiff's
10 Exhibit 12 for identification as of
11 this date by the Reporter.)

12 Q. Officer, just look take a look
13 at Exhibit 12 and let me know when you're
14 ready.

15 A. Yes.

16 Q. Okay. Have you ever seen this
17 document before?

18 A. Yes.

19 Q. Okay. When did you see this?

20 A. Um, long time ago Corporation
21 Counsel was asking me to send over a copy
22 of this. That's where I obtained it from.

23 MR. BERGMAN: Objection. You
24 were shown this by an attorney?

25 THE WITNESS: What?

1 Z. ZHENG

2 MR. BERGMAN: You were shown
3 this by an attorney?

4 THE WITNESS: Yes.

5 Q. Okay. Um, aside from your
6 attorneys have you ever seen it --

7 A. No.

8 Q. -- on any other occasion?

9 A. No.

10 Q. Okay. Um -- so um, did you
11 ever see Mr. Rodriguez um, riding his
12 bicycle on the sidewalk during this
13 incident?

14 A. No.

15 Q. Okay. Did you ever tell anyone
16 that he was?

17 A. Nope.

18 Q. Okay. Uh, now, this first
19 paragraph that's marked number one?

20 A. Yes.

21 Q. Okay. Um, does that appear
22 accurate to you?

23 A. First paragraph, right?

24 Q. Yes.

25 A. Yes.

1 Z. ZHENG

2 MR. BERGMAN: I object but
3 you're free to answer.

4 A. This paragraph is just the
5 whole incident of after when he go to the
6 hospital complain about different pains --

7 Q. Right.

8 A. -- that I have no idea about
9 it.

10 Q. Okay.

11 A. So, I -- I don't know whether
12 right to uh, say if it's accurate or not.
13 It is just a brief story --

14 Q. Okay.

15 A. -- of the whole thing.

16 Q. Okay. Um, and then you see
17 paragraph two.

18 A. Two. Where is?

19 Q. Uh, just mark number two the
20 following area --

21 A. Oh, I'm sorry.

22 Q. That's okay. And so, the
23 following narrative is based on interviews
24 with Mr. Rodriguez, a witness and Sergeant
25 Starrantino, do you see that?

1 Z. ZHENG

2 A. Yes.

3 Q. Um, and do you know who the
4 witness is that was interviewed?

5 A. No.

6 Q. Okay. Um, do you believe it
7 was the interview that you returned to give
8 a summons to that night?

9 A. Do I personally believe it,
10 yes.

11 Q. Yes. And what makes you
12 believe that?

13 A. I don't know what else is the
14 reason he was coming to the precinct for.

15 Q. Okay. Um, and then, in terms
16 of Sergeant Starrantino um, again, where
17 would he have gotten the information about
18 what happened on August 13, 2015?

19 MR. BERGMAN: Objection. You
20 can answer.

21 A. Where would he get?

22 Q. Where would he have gotten that
23 information?

24 A. I told him.

25 Q. Okay. Um -- all right.

1 Z. ZHENG

2 MR. FETT: Can you mark this as
3 Plaintiff's Exhibit 13. Um, this is
4 the marijuana supporting deposition.

5 (Whereupon, the aforementioned
6 marijuana supporting deposition was
7 marked as Plaintiff's Exhibit 13 for
8 identification as of this date by the
9 Reporter.)

10 Q. Officer, can you take a look at
11 Exhibit 13 and let me know when you're
12 ready.

13 A. Yes. Ready.

14 Q. Okay. Have you seen this
15 document before?

16 A. Yes.

17 Q. Okay. Uh, when have you seen
18 it?

19 A. I -- I prepared it.

20 Q. Okay. Um, so just looking at
21 the first page um, this is your handwriting
22 on the document?

23 A. Yes.

24 Q. Okay. And, turning to the
25 second page that's your handwriting?

1 Z. ZHENG

2 A. Yes.

3 Q. Okay. Um, and, when did you
4 prepare this document?

5 A. At the precinct after I found
6 the weed.

7 Q. Okay. Um --

8 MR. FETT: And then can I have
9 this marked as Plaintiff's Exhibit --

10 MR. BERGMAN: 14.

11 MR. FETT: 14. Thank you.

12 (Whereupon, the aforementioned
13 packet was marked as Plaintiff's
14 Exhibit 14 for identification as of
15 this date by the Reporter.)

16 Q. Officer, take a look at that
17 and let me know when you're ready.

18 A. Yes.

19 Q. Let me correct this packet that
20 you're looking at. Actually, I only need
21 you to look at Def 666 and Def 667. Those
22 are accidentally stapled to the back of it.
23 I can take those. Let me take those.

24 So Exhibit 14 should really
25 just be Def 66 and Def 67. I think

1 Z. ZHENG

2 everything else it duplicate that we've
3 already talked about.

4 Okay. Have you seen this
5 document before?

6 A. Yes.

7 Q. Okay. And um, what is this
8 document?

9 A. It's all the support the
10 deposition. I'm sorry. Um, two supporting
11 depositions. One for disorderly conduct,
12 one for uh, resisting arrest, one marijuana
13 field test deposit uh, deposition.

14 Q. Oh no, that's it. I'm sorry.
15 I accidentally attached this to the packet.
16 Really the only thing I need to you to talk
17 about right now is the resisting arrest
18 deposition and the disorderly conduct
19 deposition.

20 MR. BERGMAN: Sorry. Do you
21 want to re-stamp that because the --
22 all right it's fine.

23 THE WITNESS: It's 13 and 14.

24 MR. BERGMAN: No. I'm sorry.

25 I apologize.

1 Z. ZHENG

2 Q. Um, is this your handwriting on
3 Def 66?

4 A. Yes.

5 Q. And is it your handwriting on
6 Def 67?

7 A. Yes.

8 Q. Okay. And when did you
9 complete these documents?

10 A. Um, at the precinct after
11 arrest. After I completed arrest --
12 arrest online. I'm sorry.

13 Q. Okay. And is this the
14 paperwork that you would have faxed over to
15 the ADA?

16 A. Yes.

17 MR. BERGMAN: Objection. You
18 can answer.

19 Q. Okay. Did you do that?

20 A. I think I did, yes.

21 Q. Okay. Um and so, just looking
22 at Def 66 where it's talking about
23 resisting arrest.

24 A. Yes.

25 Q. Um, can you just read for me

1 Z. ZHENG

2 the boxes that you checked off.

3 A. Um, Flaring Defendant's arm
4 holding, Defendant's arm against
5 Defendant's body, struggling with me and
6 refused to be handcuffed.

7 Q. Okay. And by you checking that
8 off what does that mean?

9 A. That's how I feel at the time
10 for the resisting arrest.

11 Q. Okay. So that's -- you're
12 saying that's what Mr. Rodriguez did at the
13 time you were arresting him?

14 A. (Indicating.)

15 MR. FETT: Can we go off the
16 record for a second.

17 THE VIDEOGRAPHER: 4:08 P.M.
18 going off record.

19 (Whereupon, an off-the-record
20 discussion was held.)

21 THE VIDEOGRAPHER: Back on the
22 record, 4:08 -- 4:09 P.M.

23 MR. FETT: Can you read back
24 the last question.

25 (Whereupon, the referred to

1 Z. ZHENG

2 question was read back by the
3 Reporter.)

4 Q. Is that correct?

5 A. I'm sorry. Just repeat the
6 question.

7 Q. Sure. Absolutely. So these
8 boxes that you checked off on Def 66 um,
9 you're saying that's what Mr. -- that's
10 what formed the basis for you to charge Mr.
11 Rodriguez with resisting arrest; is that
12 right?

13 A. Yes.

14 Q. Okay. And then turning to Def
15 67.

16 A. Yes.

17 Q. Um, okay. So can you just read
18 for me in the middle of that page where you
19 checked off the boxes and the narrative
20 that you wrote?

21 A. Yes. Going wrong way in
22 one-way street in the middle lane and
23 passed steady red light. Um, the second
24 line too?

25 Q. Yes, please.

1 Z. ZHENG

2 A. Fleeing from officer on bike in
3 reckless manner, uh, blocked traffic,
4 caused traffic jam.

5 Q. Okay. Thank you.

6 MR. FETT: Can we have this
7 marked as Plaintiff's Exhibit 15.

8 (Whereupon, the aforementioned
9 Affidavit was marked as Plaintiff's
10 Exhibit 15 for identification as of
11 this date by the Reporter.)

12 Q. Okay. Officer, just take a
13 look at Plaintiff's 15 and let me know when
14 you're ready.

15 A. Yes.

16 Q. Okay. Um, have you seen this
17 before?

18 A. Yes.

19 Q. Okay. Um, so what is this?

20 A. It is the Affidavit I had to
21 sign at the DA's office.

22 Q. Okay. And so, is this the -- I
23 think you said you had signed two different
24 Affidavits. Is this the first one you
25 signed or the second?

1 Z. ZHENG

2 A. This is the second one.

3 Q. Okay. Why do you think it's
4 the second one?

5 A. Because after I wrote a story
6 they took out the section of the uh, red
7 light in the -- in the uh, narrative.

8 Q. Oh, I see.

9 A. There is a second page. When
10 you read the uh, first paragraph, Defendant
11 stated that, at above mentioned date, time,
12 place, he observed the defendant, Heins
13 Rodriguez operating a white bicycle
14 northbound against traffic on 104th Street
15 which is a one-way street southbound and
16 nothing about the red light.

17 Q. Okay. Um, do you remember if
18 you signed this second Affidavit sometime
19 in December of 2015?

20 A. Only refresh my memory by the
21 date I'm looking at it right here.

22 Q. And then if you look at the
23 very first page of document.

24 A. Yes.

25 Q. It still has the charge of,

1 Z. ZHENG

2 um -- I believe the charge of him running a
3 red light, is that the last charge on the
4 first page?

5 A. I believe the third from the
6 last. Oh, I'm sorry. Yes.

7 Q. Okay. So that's still in there
8 the charge from him running the red light?

9 A. Yes.

10 Q. Okay.

11 A. On this sheet, yes.

12 Q. Okay. And then you see the top
13 of this page where the date is May 3, 2009?

14 A. Yes.

15 Q. Do you have any idea why it
16 would have that date?

17 A. No.

18 MR. FETT: Can I have this
19 marked as Plaintiff's Exhibit 16.
20 These are text messages.

21 (Whereupon, the aforementioned
22 text messages were marked as
23 Plaintiff's Exhibit 16 for
24 identification as of this date by the
25 Reporter.)

1 Z. ZHENG

2 MR. FETT: Thank you.

3 Q. Okay. Officer, if you can take
4 a look at Plaintiff's Exhibit 16 and let me
5 know when you're ready.

6 A. Yes.

7 Q. Okay. Um, have you seen these
8 before?

9 A. Yes.

10 Q. Okay. Have you seen um,
11 talking about the pages that have been
12 stamped Def 488 through Def 496, have you
13 seen all of those pages before?

14 A. Yes.

15 Q. Okay. When did you see those?

16 A. At the uh, at Corp. Counsel
17 with my lawyer.

18 Q. Okay. Um, so looking at the
19 top of the very first page where it says
20 Sunday, you say you're working, right? Do
21 you see that?

22 A. That's Officer Chen.

23 Q. Okay. That was my question.
24 So that's Officer Chen's text?

25 A. Yes.

1 Z. ZHENG

2 Q. Okay. Um, so looking at that
3 first page just tell me where your first
4 text is?

5 A. I'm at Criminal court about to
6 go on stand.

7 Q. Okay. All right. Um, then can
8 you read the text um, on the rest of the
9 page.

10 A. Oh, nice, what time you coming
11 back. Still waiting, may come back now
12 change to my own clothes and then come back
13 later. They about to go on lunch break.
14 I'm not gone take his -- I'm not gonna beg
15 to testify before that for sure.

16 Q. Okay.

17 A. Which means fake and make
18 (phonetic).

19 Q. Okay. Had you been on the
20 stand yet?

21 A. For what?

22 Q. Had you testified yet?

23 A. For this case?

24 Q. Yeah, at the time that you're
25 writing these texts had you testified in

1 Z. ZHENG

2 the case yet in Criminal Court?

3 A. No.

4 Q. Okay. And then, turn the page.

5 Um, can you read the text at the top of the
6 page.

7 A. The next page?

8 Q. Yeah. Actually, you don't know
9 to read it, where it says, run this.

10 A. Yes.

11 Q. Okay. Is that your text or
12 Officer Chen?

13 A. Officer Chen.

14 Q. Okay. So, what is your
15 understanding of what he's texting you
16 there?

17 A. He needs to run the license
18 plate.

19 Q. Okay. What license plate is
20 that, do you know?

21 A. No idea.

22 Q. Did that have anything to do
23 with Mr. Rodriguez?

24 A. No.

25 Q. Okay. If you're in Criminal

1 Z. ZHENG

2 Court why is he asking you to run a license
3 plate?

4 A. I don't know.

5 Q. You had just texted him that
6 you're about to take the stand. Is it the
7 previous page?

8 A. You might want to go back a
9 little bit. It's the same page actually if
10 you --

11 Q. Got it.

12 A. If you look at --

13 Q. I see. Thank you. I
14 appreciate it. Thank you. Okay. Okay.
15 So then let's try to get back on track
16 here. So at the bottom of Def 489 okay?

17 A. Yes.

18 Q. Okay. The very last text on
19 that page, can you read what it says?

20 A. You say the bag search -- you
21 say the bag watch search at precinct.

22 Q. Okay. And, so -- and that's
23 Officer Chen, right?

24 A. Yes.

25 Q. Okay. And so what's your

1 Z. ZHENG

2 understanding of what he's saying there?

3 A. Um, he said you said bag was
4 searched at the precinct.

5 Q. Okay. And, is he talking about
6 Mr. Rodriguez' case at that point?

7 A. Yes.

8 Q. Okay. Um, do you know why he's
9 saying that?

10 MR. BERGMAN: Objection. You
11 can answer.

12 A. No. Not at the time.

13 Q. Okay. And then turning the
14 page to 490. Can you just read that page
15 of text again. I'm sorry. That page of
16 text, please?

17 A. You say the bag watch was
18 searched at precinct. Next sentence was --
19 do you want me to read the whole thing?

20 Q. Yes.

21 A. Oh yeah. I reply yes, he asked
22 me, you with ADA, I said it was, means I
23 was. He picked me up. I replied, he just
24 went in. Then he said tell ADA I said you
25 looked at the bag not me at the precinct.

1 Z. ZHENG

2 He's saying that I said that in CCRB that I
3 searched the bag, I didn't and I don't
4 recall I said anything like that in CCRB.

5 You took him in with the bag.
6 I didn't get to search anything. Sorry I
7 was in the bathroom before and reception
8 was bad.

9 Q. So, um, what is your
10 understanding of what Officer Chen is
11 texting on page 490?

12 MR. BERGMAN: Objection. You
13 can answer.

14 A. My understanding of?

15 Q. What he's texting you?

16 A. The ADA just spoke to him.

17 Q. Okay. So, was he just on the
18 phone with the ADA?

19 A. I have no idea but that's what
20 I assume.

21 Q. Okay. All right. And so um --
22 and you see where he's asking you with the
23 ADA question mark?

24 A. Yes.

25 Q. Okay. And then your responding

1 Z. ZHENG

2 it was?

3 A. I -- I'm. Sorry. It should be
4 mean I was.

5 Q. You were with the ADA?

6 A. I was, yes.

7 Q. And then he writes back he
8 picking up?

9 A. Means the phone.

10 Q. Okay. And I know you don't --
11 you're not in Officer Chen's mind but is it
12 your understanding that he is saying is the
13 ADA picking up the phone?

14 A. I have no idea.

15 Q. Okay. And then you wrote, he
16 just went in. What does that mean?

17 A. He just went into the
18 courtroom.

19 Q. Who?

20 A. ADA. Sorry.

21 Q. No, that's okay. And um, then
22 he writes tell the ADA I said you looked at
23 the bag not me at the precinct?

24 A. Yes.

25 Q. Okay. And so, what did you

1 Z. ZHENG

2 tell the ADA?

3 A. I looked at the bag at the
4 precinct.

5 Q. Okay. Did you ever tell the
6 ADA that you looked at the bag at the
7 scene?

8 A. No.

9 Q. Okay. Did Officer Chen ever
10 say that?

11 MR. BERGMAN: Objection.

12 A. I don't know.

13 Q. Okay. Um, do you believe that
14 Officer Chen is trying to tell you how to
15 testify so that your stories are
16 coordinated?

17 A. Absolutely not.

18 Q. Okay. Then why did you show
19 this to the ADA?

20 A. It was the right thing to do.

21 Q. Why?

22 A. In my deep mind this is a thing
23 that you should say during the process.
24 Um, I think that's how I feel at the time.
25 It was the right thing to do was to show it

1 Z. ZHENG

2 to the ADA.

3 Q. Okay. But you didn't think
4 there was anything wrong with what he was
5 doing?

6 A. No.

7 Q. Okay. Um, you hadn't taken the
8 stand yet?

9 A. I did already.

10 Q. You had already taken the
11 stand?

12 A. I did already.

13 Q. Okay. So, I just want to make
14 sure I'm understanding it. So, at the
15 beginning when we're at page 492 --

16 A. Yes. 492.

17 Q. You hadn't taken the stand yet?

18 A. No.

19 Q. Okay. So just, do you -- can
20 you tell me at what point in these texts
21 you take the stand. Can you tell?

22 A. One second. They wanted a
23 break between 12 to 2 so I went on a stand
24 somewhere around 1:45 to 2:00.

25 Q. Okay.

1 Z. ZHENG

2 A. Then he text me at 2:37.

3 Q. Okay. I'm sorry. When did you
4 say you took the break again?

5 A. They took a break at --
6 already, 11:30 to 1:30 so I assume I was on
7 the stand sometime between 1:45 to 2:30.

8 Q. Okay.

9 A. Sometime in between.

10 Q. And so -- okay. And so, by --
11 by page 496 you've already taken the stand?

12 A. Yes.

13 Q. Okay. And, do you remember,
14 were you already done testifying or were
15 you just on a break?

16 A. I was done testifying.

17 Q. Okay. So, there was no break
18 in your testimony that day?

19 A. No.

20 Q. And, do you know um, when you
21 gave the ADA the uh -- the text messages?

22 A. Right after I received it.

23 Q. Okay. And, how did you do
24 that, did you hand --

25 A. He actually came outside and I

1 Z. ZHENG

2 gave it to him right away.

3 Q. Okay. What did you say when
4 you gave it to him?

5 A. This is what I got from my --
6 my partner.

7 Q. What did he say when you gave
8 it to him?

9 A. Make sure you save this. Send
10 a copy to me.

11 Q. Okay. And then, um, where did
12 you go after that?

13 A. Either the precinct or home.
14 I don't remember.

15 Q. Okay. So if you we're done --
16 done testifying, why were you sitting
17 outside the courtroom texting?

18 A. Still waiting for the ADA to
19 give me instruction for what's next.

20 Q. Okay. So once you were done
21 testifying you didn't know if you were
22 relieved yet to go?

23 A. No.

24 Q. Okay. And so, um, do you know
25 what the ADA did with this information?

1 Z. ZHENG

2 A. I have no idea.

3 Q. Okay. Do you know whether
4 Officer Chen ever testified in this case?

5 MR. BERGMAN: Objection. You
6 can answer.

7 A. No.

8 Q. Okay.

9 MR. FETT: Off the record.

10 THE VIDEOGRAPHER: 4:24 P.M.
11 off the record.

12 (Whereupon, an off-the-record
13 discussion was held.)

14 (Whereupon, a short recess was
15 taken.)

16 THE VIDEOGRAPHER: Back on
17 record, 4:40 P.M.

18 Q. Okay. Um, Officer Zheng, um,
19 the incident that we have talked about
20 where you struck a pedestrian as you are
21 going in reverse in your vehicle?

22 A. Yes.

23 Q. Okay. Was that individual
24 named Robert Midroy, does that refresh your
25 recollection of a lawsuit --

1 Z. ZHENG

2 A. No.

3 Q. Robert Midroy versus the City?

4 A. No.

5 Q. Okay. Um, I'll represent that
6 that's the name of the individual that you
7 struck?

8 A. Okay.

9 Q. Um, and you said you were
10 deposed in that case, right?

11 A. Yes, by a tall guy. Tall white
12 guy.

13 Q. That's okay. And, are you
14 aware that Mr. Rodriguez has undergone
15 surgery as a result of what happened that
16 day?

17 A. No.

18 Q. Okay.

19 A. I'm sorry. At the deposition
20 they told me.

21 Q. Okay. What did they tell you
22 at the deposition?

23 A. By you saying "surgery." I
24 think they were saying something about
25 surgery.

1 Z. ZHENG

2 Q. Okay. Um, it's my
3 understanding that he has had two knee
4 surgeries as a result of the incident, does
5 that sound familiar?

6 A. No.

7 Q. Um, so I'm going to show you a
8 video of the incident that we're here for
9 today, okay?

10 A. Yes.

11 Q. Okay. Um, officer, I'm going
12 to try to play this video so that both you
13 and I can be looking at it at the same
14 time? Um, can you see it okay?

15 A. Yes.

16 Q. Is there a glare or anything?
17 Okay. All right. So first I'm just going
18 to play it and let it play and just let me
19 know if this is the same video that you've
20 looked at before, okay?

21 A. Sure.

22 (Whereupon video is played.)

23 Q. Okay. Um, does that look like
24 the same video that you've already seen?

25 A. At the CCRB?

1 Z. ZHENG

2 Q. Um, sure.

3 A. Yes, CCRB.

4 Q. And I think you also said you
5 reviewed this video with your attorney?

6 A. Yes.

7 Q. It looks like the same video?

8 A. Ah, yes.

9 Q. So, I'm just going to go
10 through it with you and stop it at certain
11 points and ask you a couple questions.

12 A. Sure.

13 Q. Okay. And so, um is the road
14 we're looking at 43rd Avenue?

15 A. Yes.

16 Q. And are the cars that you're
17 traveling in the right-hand lane, are those
18 the cars that are heading west?

19 A. Yes.

20 Q. And that would be toward the
21 110 Precinct?

22 A. Yes.

23 Q. And so, is the car that we're
24 seeing pulling up at 4 minutes and 51
25 seconds, is that the uh, vehicle that Mr.

1 Z. ZHENG

2 Rodriguez eventually strikes with his bike?

3 A. Yes.

4 Q. Okay. I'm just going to go
5 back a little bit. So right here at um --
6 Sorry, I'm having a hard time using this
7 but I want to go back a little bit before 1
8 minute and 19 seconds where we first see
9 you come into the -- your vehicle come into
10 the screen. Okay. So right here I'm at
11 1 minute and 17 seconds.

12 So, how far would you say your
13 vehicle is from Mr. Rodriguez' bike at
14 1 minute 17 seconds?

15 A. Less than a foot.

16 Q. Okay. And um, as you're
17 looking at the video is it still your
18 opinion that your car doesn't come into
19 contact with Mr. Rodriguez' bike?

20 A. I don't see any contacts.

21 Q. Okay. And u, is this what
22 we're looking at 1 minute 17 seconds is
23 this generally the location where Mr. --
24 where the blue vehicle, the witnesses
25 vehicle was um --

1 Z. ZHENG

2 MR. FETT: Let me strike that.

3 Q. So what we're looking at
4 1 minute and 17 seconds is this where Mr.
5 Rodriguez is striking the witness' vehicle,
6 the blue vehicle?

7 A. Look, like the location?

8 Q. Yes.

9 A. Yes.

10 Q. Okay. And so, is that
11 generally where we might see a scratch or a
12 mark on the blue car?

13 MR. BERGMAN: Objection. You
14 can answer.

15 A. Yes.

16 Q. Okay. And, at this point,
17 describe for me the direction that you're
18 traveling?

19 A. Towards the westbound.

20 Q. Do you think you were still
21 going straight, did you think you were
22 starting to turn in or something else?

23 A. Turn in a little bit.

24 Q. Okay. And you would be turning
25 right uh, towards Mr. Rodriguez, fair to

1 Z. ZHENG

2 say?

3 A. Yes.

4 Q. Okay. And, why are you doing
5 that?

6 A. It's a gap right there trying
7 stop. Trying to get his attention tell him
8 to stop.

9 Q. Okay. So that's where you were
10 trying to get his attention?

11 A. That is where my partner got
12 closest to him --

13 Q. Okay.

14 A. Yes.

15 Q. Okay. Um, and so, at this
16 point I think you said your windows are
17 down?

18 A. Yes.

19 Q. Okay. Now, that you're seeing
20 the video do you recall whether or not
21 Officer Chen said anything at this point to
22 Mr. Rodriguez?

23 A. No.

24 Q. Okay. And at this point I know
25 we can't hear it but were your lights and

1 Z. ZHENG

2 sirens on at this point?

3 A. Yes.

4 Q. Okay. And um, looking at this
5 now do you think this was a safe pursuit
6 Mr. Rodriguez?

7 A. Yes.

8 Q. Okay. And then after that we
9 see him fall to the ground. And then now
10 at uh 1 minute and 20 seconds um, you see
11 how your vehicle is now turned in towards
12 the um, sidewalk?

13 A. If you just back up one second
14 my car is actually stopped right there.

15 Q. Okay.

16 A. Parallel to the car. Well,
17 parallel to the black car.

18 Q. Okay.

19 A. Right there. My car stopped
20 right there.

21 Q. Okay. And so, looking at
22 1 minute and 17 seconds and what do you
23 want to -- what are you telling me right
24 here?

25 A. My car is stopped at the

1 Z. ZHENG

2 location right there where he hit the
3 parked car.

4 Q. Okay. And so um, you're saying
5 you stopped here?

6 A. You can just keep playing. I
7 stopped -- you can just keep playing.

8 Q. Why did you stop?

9 A. Because he hit the parked car.

10 Q. Okay. And so um -- and is it
11 still your testimony that having seen him
12 fall like this you didn't think he needed
13 any um, medical treatment, is that fair to
14 say?

15 A. Yes.

16 Q. Okay. Now, but -- now that
17 we're looking at 1 minute and 19 seconds,
18 is it fair to say that your car is turned,
19 I would say, right towards the sidewalk; is
20 that fair to say?

21 A. Yes.

22 Q. Okay.

23 A. After I stopped parallel to the
24 blue car then I moved my car. I moved my
25 car to the right.

1 Z. ZHENG

2 Q. Okay. Why did you do that?

3 A. To stop him.

4 Q. Okay. And um --

5 A. To get away from the traffic
6 and stop him.

7 Q. Okay. And um, where are you
8 seeing Mr. Rodriguez' bike in this -- at
9 1 minute and 19 seconds?

10 A. On the street.

11 Q. Right by the curb; is that fair
12 to say?

13 A. Right by the curb.

14 Q. Okay. And um, where is Mr.
15 Rodriguez?

16 A. Sitting there.

17 Q. Okay. Now, as you're looking
18 at this right now does he appear to be
19 obstructing traffic in any way?

20 A. No.

21 Q. Okay. How about your vehicle?

22 A. Yes.

23 Q. It appears to be obstructing
24 traffic?

25 A. Yes.

1 Z. ZHENG

2 Q. And now you're looking at the
3 video, do you recall any conversation or
4 any words that were spoken between either
5 you, Officer Chen or Mr. Rodriguez at this
6 point at 1 minute and 26 seconds.

7 A. No.

8 Q. Okay. Okay. And then it looks
9 like at 1 minute and 28 seconds you're
10 already starting to handcuff him; is that
11 right?

12 A. Started, yes.

13 Q. Okay. And so, when I'm looking
14 at this at 1 minute and 28 seconds um, are
15 you the officer that's on the sidewalk, are
16 you the officer that looks like um, uh --
17 maybe still on the street a little bit?

18 MR. BERGMAN: Objection. You
19 can answer.

20 A. On the right-hand side.

21 Q. Okay. So, can you just point
22 to me which one you were because I don't
23 know what you mean by the right-hand side?

24 A. Sorry. (Indicating.)

25 Q. Okay. So, at 1 minute and 28

1 Z. ZHENG

2 seconds you're actually officer um, who is
3 sort of facing your vehicle; is that fair
4 to say?

5 A. Me.

6 Q. Yes.

7 A. Yes.

8 MR. BERGMAN: I'm sorry.

9 Higher on the screen or lower on the
10 screen?

11 THE WITNESS: I'm higher on the
12 screen.

13 Q. So, really at this point at 1
14 minute and 28 seconds we kind of just see
15 your head, right?

16 A. Yes.

17 Q. But we see all of Officer Chen
18 the back of his body?

19 A. Yes.

20 Q. And at this point, is this
21 where you would describe Mr. Rodriguez as
22 resisting?

23 A. Yes.

24 Q. Okay. And, how is he doing
25 that?

1 Z. ZHENG

2 A. He's uh, his body leaned away
3 from us.

4 Q. Okay. Is there any
5 conversation going on at this point
6 anywhere from 1 minute and 27 seconds to a
7 minute and 38 seconds?

8 A. I'm sure something say but I
9 don't remember exactly who it was.

10 Q. Have you seen him flair his
11 arms yet?

12 A. No.

13 Q. Have you seen him flailing his
14 arm?

15 A. He's twisting his body
16 actually.

17 Q. Okay.

18 A. Making it hard for me to
19 handcuff him.

20 Q. Okay. So that's where he's
21 making it hard?

22 A. Yes.

23 Q. Have you ever seen him lose
24 consciousness or get dizzy?

25 A. No.

1 Z. ZHENG

2 Q. Okay. Um, did you see him
3 frail his arms?

4 MR. BERGMAN: Objection. You
5 can answer.

6 A. No, not on video. No.

7 Q. Okay.

8 A. Just to clarify for me to flair
9 arms also means he twist his arms. Refuse
10 for me to be -- to be handcuffed at the
11 time.

12 Q. Okay. And um, just as we keep
13 letting it play, um, just let me know where
14 you're seeing him engage in any kind of
15 activity that could be a characterized as
16 disorderly connect?

17 A. People gathering. The car on
18 the left-hand side which just passed by
19 slowly --

20 Q. Okay.

21 A. Took a look at what's going on.
22 Partially because my car was blocked. If
23 my car backed the traffic solely because he
24 was running away that caused the whole
25 incident.

1 Z. ZHENG

2 Q. Okay. And so we're looking now
3 at three minutes. So basically, the cars
4 that are kind of driving and looking at
5 what's going on?

6 A. Right. And people start
7 generating on the right-hand corner and top
8 corner right there.

9 Q. Okay. And that would be
10 disorderly conduct?

11 A. To me that was, right.

12 Q. Okay.

13 A. Well this is a short video.
14 If you keep going on video more people come
15 in and started filming and stuff like that.
16 I, you know, I didn't even know what was
17 going on around me.

18 Q. Okay. Was he -- Was Mr.
19 Rodriguez ever yelling?

20 A. He was screaming something. I
21 have no idea what it was.

22 Q. Oh, he was screaming?

23 A. I don't remember. Not
24 screaming he was just. I felt like he was
25 angry.

1 Z. ZHENG

2 Q. Okay. How do you know he was
3 angry?

4 A. I think he was angry.

5 Q. Why do you think he was angry?

6 A. Loud voice.

7 Q. Okay. Would you say he was
8 screaming?

9 A. No.

10 Q. Okay. Um, and -- but you don't
11 remember what he was saying?

12 A. No.

13 Q. Did you ever talk to any of
14 civilians at the scene to see if they had
15 seen what had happened?

16 A. No. I'm sorry. To clarify.
17 The only person I spoke to at the scene was
18 the owner of the vehicle.

19 Q. Okay. And um, forgive me
20 because you may have already um, you may
21 have already, um, told me this, but what
22 was the conversation with the civilian at
23 the scene?

24 A. Which one?

25 Q. The one whose car was struck by

1 Z. ZHENG

2 Mr. Rodriguez?

3 A. I don't remember exactly what.

4 Q. All right. I'm gonna show you
5 a second video. I'm just going to play it
6 at first and just let me know if you've
7 ever scene it.

8 A. Yes.

9 Q. Um, I apologize for how it's
10 set up but basically you're free to look at
11 the whole thing but the video is going to
12 be on the right side.

13 (Whereupon video is played.)

14 Q. So, this video is about 32
15 seconds long. Have you ever seen it
16 before?

17 A. I've seen it without the
18 left-hand side.

19 Q. Okay. Um, and so, when you
20 just watched this video did you see
21 yourself anywhere in the video?

22 A. I'm not 100 percent sure.

23 Q. I'll play it back briefly. Did
24 you see Officer Chen anywhere in the video?

25 A. Not 100 percent sure either.

1 Z. ZHENG

2 Q. Did you see Sergeant
3 Starrantino anywhere in the video?

4 A. It looked like him. I can't
5 even tell because of the quality of the
6 video.

7 Q. Okay. So let me -- I'll back
8 it up a little. Do you know who took this
9 video?

10 A. I have no idea.

11 Q. When did you see the video?

12 A. At Counsel's office. At my
13 attorney's office.

14 Q. All right. So um, and you said
15 earlier, I think you said, if it kept
16 playing you'd see people gathered around,
17 is this what you were talking about when
18 you said people gather around?

19 A. Yes.

20 Q. Okay. So, looking at the video
21 on that one second, let's see. All right.
22 So just looking, can you see if that's you
23 in the picture at all at nine seconds?

24 A. With the quality, no.

25 Q. And um, at 17 seconds it looks

1 Z. ZHENG

2 to me like um, Heins Rodriguez is being
3 taken away in handcuffs; is that correct?
4 Am I correct?

5 A. I -- yes. I assume, yeah.

6 Q. Okay. Do you know who either
7 one of these officers are in the screen at
8 25 seconds?

9 A. Not with the quality, no.

10 Q. Okay. Um, can you tell what
11 those officers were doing between 25
12 seconds and 29 seconds?

13 A. No.

14 Q. Okay. I think the problem is I
15 need to see it a little better also. Can
16 you still see it when I have it turned?

17 A. Yeah.

18 Q. Okay. So see at 24 seconds the
19 two officers in the screen it looks like
20 the officer on the left is holding the
21 backpack; is that fair to say?

22 MR. BERGMAN: Objection. You
23 can answer.

24 A. I don't know.

25 Q. Right here. It looks as if

1 Z. ZHENG

2 they have a backpack. Does that look like
3 that to you?

4 A. Yes.

5 Q. Okay. And um, I might have
6 already asked you. Do you think who either
7 one of those officers are?

8 A. Not with that quality, no.

9 Q. Okay. Do you know if you were
10 ever holding the backpack on the scene like
11 that?

12 A. I don't remember. No.

13 Q. Do you know if Officer Chen was
14 ever holding a backpack on the scene like
15 that?

16 A. No. I don't remember.

17 Q. Okay. And then I think you
18 said -- I think you said you might have
19 seen Sergeant Starrantino?

20 A. The first picture looks like
21 him. I'm not sure.

22 Q. Okay. So it just at the very
23 beginning of video um, the officer that's
24 in the -- sort of the middle of the screen?

25 A. He's just a chaperone here. A

1 Z. ZHENG

2 blue collar. I'm not even sure that's him.

3 Q. Okay. So looking back on
4 August 13, 2015 and this incident with Mr.
5 Rodriguez, is there anything you would have
6 done differently?

7 MR. BERGMAN: Objection. You
8 can answer.

9 A. I have no idea. What do you
10 mean by that question? I'm sorry.

11 Q. That's okay. It's a vague
12 question. Um, in terms of your um, pursuit
13 and your um, apprehension and arrest of Mr.
14 Rodriguez, is there anything you would have
15 done different?

16 MR. BERGMAN: Objection. You
17 can answer.

18 A. To be honest with you I don't
19 know.

20 Q. Okay.

21 MR. FETT: Off the record for
22 just a minute.

23 THE VIDEOGRAPHER: 5:10 P.M.
24 going off record.

25 (Whereupon, an off-the-record

1 Z. ZHENG

2 discussion was held.)

3 MR. FETT: Okay. Um, I am
4 done. I don't know if I uh, said
5 this, at the beginning of the
6 deposition but it's Plaintiff's
7 position that we are going to be
8 holding the deposition open pending
9 any outstanding material um, and
10 pending um, what we learned from Mr.
11 Rodriguez' second interview that we
12 just found out about today and also
13 the interview of this other witness
14 that we just found out about
15 yesterday.

16 MR. BERGMAN: Defendants object
17 and well take it up when the time
18 comes.

19 MR. FETT: Okay. Thank you.

20 THE VIDEOGRAPHER: The time is
21 5:11 P.M. This concludes the
22 deposition of Zuopeng Zheng and we
23 are now off record.

24 * * * *

25

1 Z. ZHENG

2 (Whereupon, at 5:11 P.M., the
3 Examination of this witness was
4 concluded.)

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1 Z. ZHENG

2 D E C L A R A T I O N

3

4 I hereby certify that having been
5 first duly sworn to testify to the truth, I
6 gave the above testimony.

7

8 I FURTHER CERTIFY that the foregoing
9 transcript is a true and correct transcript
10 of the testimony given by me at the time
11 and place specified hereinbefore.

12

13

14

15 _____
ZUOPENG ZHENG

16

17

18 Subscribed and sworn to before me
19 this _____ day of _____ 20____.

20

21

22 _____
NOTARY PUBLIC

23

24

25

1 Z. ZHENG

2 E X H I B I T S

3

4 PLAINTIFF'S EXHIBITS

5

6 EXHIBIT EXHIBIT PAGE

7 NUMBER DESCRIPTION

8 1 Patrol guide 67

9 2 Memo book 204

10 3 Accident report 206

11 4 OMNI form 221

12 5 Arrest worksheet 232

13 6 OLPA form 241

14 7 Pedigree card 243

15 8 Medical treatment form 248

16 9 Photos 256

17 10 Photos 259

18 11 Photos 263

19 12 Memo 273

20 13 Supporting deposition 277

21 14 Packet 278

22

23 (Exhibits retained by Counsel.)

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4 EXAMINATION BY PAGE

5 MR. FETT 6

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8 INFORMATION AND/OR DOCUMENTS REQUESTED

9 INFORMATION AND/OR DOCUMENTS PAGE

10 Photo of drivers side of vehicle 263

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C E R T I F I C A T E

I, DIONE WOODS, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 17th day of September
2018.

Dione Woods

DIONE WOODS

\$	114 ^[1] - 235:22 114th ^[4] - 226:12, 227:9, 235:23, 238:3 1167 ^[1] - 258:12 1167-1173 ^[1] - 256:5 1168 ^[1] - 258:13 1170 ^[2] - 256:20, 257:4 1174 ^[1] - 264:19 1174-1199 ^[1] - 263:19 1178 ^[2] - 265:10, 265:19 1179 ^[1] - 268:5 1180 ^[1] - 268:15 1181 ^[1] - 270:4 1182 ^[1] - 270:5 1184 ^[1] - 270:15 1188 ^[1] - 270:17 1195 ^[1] - 270:20 1197 ^[1] - 271:7 1198 ^[2] - 272:4, 272:11 1199 ^[2] - 272:15, 272:16 11:24 ^[3] - 1:16, 2:3, 5:3 11:30 ^[1] - 295:6 11:40 ^[1] - 25:19 11:41 ^[1] - 25:24 12 ^[10] - 206:6, 212:15, 226:22, 238:13, 238:24, 261:20, 273:5, 273:6, 294:23, 321:19 13 ^[20] - 47:25, 48:11, 48:17, 76:13, 79:9, 81:18, 141:23, 142:2, 195:11, 205:10, 206:13, 233:24, 256:25, 264:21, 267:16, 272:21, 276:18, 279:23, 317:4, 321:20 138th ^[1] - 148:25 14 ^[6] - 206:9, 273:7, 278:10, 278:11, 279:23, 321:21 15 ^[4] - 105:3, 123:21, 153:10, 283:13 150 ^[1] - 88:16 16-CV-5861 ^[1] - 1:6 1645 ^[1] - 205:15 1647 ^[1] - 205:22 16CV5861 ^[1] - 5:18 17 ^[6] - 301:11, 301:14, 301:22, 302:4, 304:22, 314:25 1723 ^[2] - 9:22, 9:23 17th ^[1] - 323:20 19 ^[3] - 301:8, 305:17, 306:9 1935 ^[3] - 77:14, 205:11, 206:8 1:16 ^[1] - 147:11 1:30 ^[1] - 295:6 1:45 ^[2] - 294:24, 295:7	2	2:00 ^[1] - 294:24 2:07 ^[1] - 147:16 2:30 ^[1] - 295:7 2:31 ^[2] - 181:18, 181:23 2:37 ^[1] - 295:2
'08 ^[1] - 46:5 '09 ^[1] - 46:5			3
0			3 ^[8] - 186:15, 212:6, 220:22, 221:19, 223:18, 249:13, 285:13, 321:10 30 ^[5] - 4:16, 13:14, 58:5, 106:3, 156:4 32 ^[1] - 313:14 38 ^[1] - 309:7 3:18 ^[1] - 237:15 3:20 ^[1] - 237:20 3:44 ^[1] - 264:5 3:47 ^[1] - 264:10
001169 ^[1] - 257:19 01/10/07 ^[1] - 35:5 0435 ^[1] - 206:10			4
1			4 ^[7] - 85:10, 85:14, 220:22, 221:20, 230:21, 300:24, 321:11 40 ^[2] - 13:16, 58:5 42 ^[4] - 87:13, 87:20, 87:23, 88:15 43 ^[13] - 82:20, 83:6, 88:4, 88:15, 91:13, 97:25, 98:5, 98:14, 130:20, 187:14, 194:11, 194:15, 205:17 43rd ^[15] - 98:3, 103:8, 103:11, 103:20, 104:7, 105:25, 106:6, 106:11, 106:18, 107:13, 111:15, 139:10, 156:7, 159:23, 300:14 447 ^[3] - 141:9, 180:4, 267:13 488 ^[1] - 286:12 489 ^[1] - 289:16 490 ^[2] - 290:14, 291:11 492 ^[2] - 294:15, 294:16 496 ^[2] - 286:12, 295:11 4:00 ^[1] - 186:15 4:08 ^[2] - 281:17, 281:22 4:09 ^[1] - 281:22 4:24 ^[1] - 297:10 4:40 ^[2] - 230:22, 297:17
1 ^[25] - 1:10, 3:12, 4:17, 6:17, 43:12, 184:9, 212:6, 220:22, 249:13, 301:7, 301:11, 301:14, 301:22, 302:4, 304:10, 304:22, 305:17, 306:9, 307:6, 307:9, 307:14, 307:25, 308:13, 309:6, 321:8 10 ^[7] - 1:10, 3:12, 12:19, 13:10, 104:24, 150:22, 321:17 100 ^[10] - 3:14, 121:13, 184:8, 192:22, 265:22, 266:4, 266:10, 268:12, 313:22, 313:25 10005 ^[2] - 2:11, 3:6 10007 ^[1] - 3:15 102 ^[3] - 104:17, 104:19, 105:11 102st ^[1] - 104:18 103 ^[3] - 101:11, 101:12, 105:13 104 ^[17] - 88:4, 91:16, 99:18, 102:6, 104:17, 105:10, 108:8, 125:4, 125:14, 130:20, 130:21, 194:11, 194:20, 194:22, 205:16, 227:5, 227:7 104th ^[21] - 82:18, 82:25, 83:3, 83:15, 83:18, 83:21, 84:16, 87:13, 87:22, 91:12, 98:3, 101:7, 101:11, 102:11, 102:14, 133:23, 148:12, 148:13, 227:3, 227:13, 284:14 11 ^[4] - 77:14, 212:7, 212:12, 321:18 110 ^[16] - 11:6, 18:3, 18:4, 19:4, 19:7, 36:20, 37:8, 37:11, 37:19, 45:6, 62:7, 135:4, 135:5, 137:21, 205:12, 300:21 1100 ^[2] - 77:14, 205:11 110th ^[1] - 76:18		2 ^[5] - 212:6, 220:22, 249:13, 294:23, 321:9 20 ^[3] - 13:12, 105:6, 304:10 2000 ^[1] - 206:10 2006 ^[1] - 34:20 2007 ^[2] - 29:12, 34:20 2008 ^[2] - 37:9, 37:11 2009 ^[3] - 42:23, 44:9, 285:13 2011 ^[2] - 38:11, 38:23 2012 ^[7] - 38:9, 39:16, 39:17, 41:14, 41:18, 148:24, 149:17 2013 ^[4] - 77:21, 77:23, 148:24, 149:17 2014 ^[5] - 16:5, 16:6, 16:7, 77:22, 77:23 2015 ^[23] - 12:7, 16:2, 47:25, 48:12, 48:17, 68:8, 76:13, 79:9, 81:7, 141:23, 142:2, 195:11, 205:10, 206:9, 206:13, 256:25, 264:22, 267:16, 272:21, 273:7, 276:18, 284:19, 317:4 2018 ^[4] - 1:15, 2:2, 5:4, 323:21 204 ^[1] - 321:9 206 ^[1] - 321:10 20 ^{_____} ^[1] - 320:19 212-239 ^[1] - 68:22 212-39 ^[3] - 66:11, 67:21, 199:14 215642441 ^[1] - 206:7 221 ^[1] - 321:11 221-15 ^[2] - 66:7, 67:22 232 ^[1] - 321:12 24 ^[5] - 9:5, 9:8, 9:11, 9:14, 315:18 241 ^[1] - 321:13 243 ^[1] - 321:14 248 ^[1] - 321:15 25 ^[5] - 1:15, 2:2, 5:4, 315:8, 315:11 250 ^[1] - 82:11 25461 ^[3] - 1:9, 3:11, 10:24 256 ^[1] - 321:16 259 ^[1] - 321:17 26 ^[1] - 307:6 263 ^[2] - 321:18, 322:10 27 ^[1] - 309:6 273 ^[1] - 321:19 277 ^[1] - 321:20 278 ^[1] - 321:21 28 ^[4] - 307:9, 307:14, 307:25, 308:14 28461 ^[2] - 1:9, 3:11 29 ^[1] - 315:12	5
			5 ^[4] - 85:14, 205:6, 220:22, 321:12 51 ^[1] - 300:24 528 ^[3] - 248:18, 249:4, 249:10 5:00 ^[2] - 85:10, 85:13 5:10 ^[1] - 317:23 5:11 ^[2] - 318:21, 319:2

5:23 [1] - 9:25	65:9, 66:10, 66:18, 68:21, 69:24, 70:8, 70:24, 72:4, 72:11, 76:12, 76:25, 82:13, 84:21, 85:10, 85:19, 86:17, 100:13, 104:15, 115:8, 117:8, 121:9, 129:22, 131:11, 132:11, 134:10, 142:15, 146:16, 146:19, 146:23, 146:25, 149:4, 149:11, 150:14, 155:15, 156:6, 159:14, 163:19, 164:19, 164:20, 176:8, 177:11, 179:10, 188:24, 193:4, 194:9, 197:7, 209:18, 211:20, 214:11, 221:12, 225:23, 228:23, 231:17, 232:11, 236:23, 261:19, 262:20, 264:4, 272:20, 272:24, 275:6, 275:8, 276:17, 279:3, 279:17, 280:22, 284:16, 286:11, 287:5, 287:13, 289:6, 290:5, 297:19, 298:24, 306:21, 313:14, 314:17, 318:12, 318:14	action [1] - 323:16 activity [2] - 191:3, 310:15 actual [1] - 27:4 actually [45] - 32:5, 46:25, 48:22, 59:18, 61:23, 97:20, 99:14, 99:17, 103:3, 111:3, 128:6, 133:9, 136:22, 142:24, 147:9, 147:24, 149:4, 149:20, 158:20, 166:3, 167:3, 176:21, 190:18, 190:23, 201:2, 201:10, 210:15, 212:11, 212:17, 214:23, 218:2, 223:7, 225:14, 239:18, 257:3, 262:23, 265:25, 266:9, 278:20, 288:8, 289:9, 295:25, 304:14, 308:2, 309:16 ADA [37] - 50:10, 50:17, 50:18, 51:17, 51:18, 52:23, 53:2, 53:25, 55:22, 56:4, 186:18, 186:20, 186:24, 187:5, 187:24, 193:8, 196:20, 197:4, 197:18, 262:22, 280:15, 290:22, 290:24, 291:16, 291:18, 291:23, 292:5, 292:13, 292:20, 292:22, 293:2, 293:6, 293:19, 294:2, 295:21, 296:18, 296:25 ADA's [2] - 57:13, 196:18 add [2] - 185:19, 216:21 additional [1] - 185:19 address [3] - 6:16, 244:12, 244:23 administer [1] - 4:11 administrative [1] - 78:20 admitted [1] - 31:3 af [1] - 179:11 Affairs [1] - 175:6 affect [2] - 9:3, 56:9 Affidavit [8] - 197:21, 197:23, 197:25, 198:4, 198:12, 283:9, 283:20, 284:18 Affidavits [1] - 283:24 afoot [1] - 301:15 aforementioned [16] - 67:23, 204:14, 206:25, 221:22, 233:2, 241:5, 242:24, 248:10, 256:6, 259:23, 263:20, 273:8, 277:5, 278:12, 283:8, 285:21 after [64] - 4:16, 10:2, 20:9, 26:23, 32:13, 35:21, 36:4, 36:7, 36:19, 38:6, 39:13, 47:24, 52:20, 78:2, 81:4, 97:2, 103:6, 103:25, 104:6, 108:15, 108:22, 115:19, 117:16, 120:14, 123:16,	124:23, 127:8, 129:4, 130:10, 131:16, 133:25, 137:19, 138:22, 169:17, 173:15, 173:25, 179:12, 181:7, 181:13, 190:22, 191:5, 197:13, 203:20, 208:11, 209:3, 225:21, 226:14, 227:17, 227:19, 230:24, 233:25, 236:25, 237:3, 238:4, 251:2, 275:5, 278:5, 280:10, 280:11, 284:5, 295:22, 296:12, 304:8, 305:23 afternoon [3] - 85:11, 85:13, 230:22 afterward [1] - 213:5 afterwards [1] - 180:7 again [37] - 24:19, 75:11, 78:17, 92:25, 95:25, 126:5, 131:18, 132:16, 152:8, 152:15, 154:13, 158:12, 158:22, 159:20, 173:17, 173:24, 174:9, 179:7, 179:13, 183:5, 192:8, 195:2, 199:12, 200:22, 210:2, 218:10, 235:23, 235:24, 247:4, 262:5, 267:17, 267:20, 267:23, 270:22, 276:16, 290:15, 295:4 against [18] - 1:6, 5:16, 54:19, 57:4, 60:23, 90:10, 99:9, 99:18, 194:23, 195:21, 198:25, 226:12, 227:2, 227:13, 238:3, 271:11, 281:4, 284:14 agent [1] - 46:10 ago [5] - 12:18, 23:12, 49:15, 237:2, 273:20 AGREED [2] - 4:5, 4:20 Ah [1] - 239:6 ah [13] - 7:13, 16:15, 28:25, 36:20, 44:4, 58:16, 149:13, 187:21, 189:23, 205:7, 205:10, 208:17, 300:8 Ah-huh [1] - 239:6 ah-huh [7] - 7:13, 16:15, 149:13, 187:21, 189:23, 205:7, 208:17 ahead [1] - 161:4 aid [5] - 252:25, 253:5, 253:9, 253:15, 254:7 air [1] - 139:4 al [1] - 5:17 alcohol [2] - 9:6, 9:9 ALEN [2] - 1:9, 3:11 all [56] - 4:21, 7:11, 11:25, 12:6, 13:3, 17:2, 24:22, 33:5, 59:12, 79:24, 104:18, 110:6, 113:2, 113:13, 113:20, 117:5, 117:19, 131:10,
6			
6 [3] - 240:24, 321:13, 322:5 62 [1] - 239:5 66 [4] - 278:25, 280:3, 280:22, 282:8 666 [1] - 278:21 667 [1] - 278:21 67 [4] - 278:25, 280:6, 282:15, 321:8 68th [3] - 148:25, 149:2			
7			
7 [1] - 321:14 73rd [4] - 36:10, 36:13, 37:2, 37:5 7:35 [1] - 77:15			
8			
8 [1] - 321:15 80 [3] - 2:10, 3:5, 5:12 82 [1] - 29:20 8:30 [1] - 22:3 8th [1] - 206:9	above [3] - 213:25, 284:11, 320:6 absolutely [5] - 7:25, 107:20, 204:21, 282:7, 293:17 academy [4] - 36:8, 68:17, 69:4, 69:6 acc [1] - 217:8 accepted [2] - 35:6, 35:22 accident [53] - 14:15, 16:5, 16:11, 17:5, 17:6, 17:8, 17:24, 27:4, 28:21, 29:15, 29:18, 31:13, 32:7, 32:10, 32:13, 33:10, 33:12, 33:16, 33:21, 63:18, 120:21, 143:25, 144:3, 148:21, 148:24, 149:8, 149:12, 191:6, 206:24, 207:2, 211:15, 213:4, 213:12, 215:25, 216:12, 216:16, 217:9, 218:3, 218:11, 218:12, 218:18, 218:19, 218:21, 218:25, 219:3, 219:9, 219:16, 219:17, 221:6, 258:21, 261:12, 261:19, 262:14 Accident [1] - 321:10 accidentally [2] - 278:22, 279:15 accidents [3] - 28:6, 28:8, 28:14 accurate [4] - 216:3, 274:22, 275:12 accusations [1] - 172:2 accused [1] - 236:15		
9			
9 [4] - 255:22, 255:23, 255:24, 321:16 94 [4] - 248:19, 249:16, 255:17 943985 [1] - 11:2 988 [2] - 259:22, 260:10 989 [5] - 259:22, 261:4, 262:2, 262:8, 262:9 9:00 [1] - 22:4			
A			
A-F [2] - 71:22, 74:3 A.M [5] - 1:16, 2:3, 5:4, 25:20, 25:24 abbreviated [1] - 217:15 ability [1] - 8:10 able [5] - 8:22, 10:13, 33:3, 66:15, 175:24 about [123] - 15:6, 17:3, 21:9, 24:11, 24:16, 25:18, 27:3, 27:9, 33:11, 45:5, 45:7, 46:19, 47:3, 47:22, 48:2, 48:5, 48:7, 48:10, 48:12, 48:15, 48:17, 49:3, 50:20, 51:6, 51:9, 51:10, 51:11, 52:14, 53:20, 55:5, 55:14, 55:16, 55:23, 56:3, 59:4, 59:11, 59:21, 59:23, 60:2, 61:2, 61:17, 61:20, 62:3,			

<p>140:16, 140:20, 148:19, 156:9, 160:24, 174:8, 178:15, 183:18, 185:9, 190:19, 195:23, 198:15, 201:16, 201:20, 210:3, 210:5, 217:8, 217:16, 224:20, 225:9, 228:13, 237:3, 240:4, 244:8, 265:13, 265:14, 276:25, 279:9, 279:22, 286:13, 287:7, 291:21, 299:17, 308:17, 313:4, 314:14, 314:21, 314:23</p> <p>allegedly [1] - 46:22</p> <p>Allen [3] - 47:21, 49:2, 49:3</p> <p>allowed [7] - 63:7, 66:23, 67:2, 67:8, 182:11</p> <p>almost [1] - 104:18</p> <p>alone [2] - 41:9, 195:6</p> <p>along [1] - 111:18</p> <p>alongside [16] - 107:8, 107:10, 109:4, 109:11, 144:16, 156:24, 156:25, 157:15, 158:4, 159:19, 160:2, 160:12, 200:6, 201:25, 218:7, 231:18</p> <p>already [27] - 33:8, 36:5, 55:10, 56:2, 57:17, 72:11, 82:17, 94:9, 104:10, 120:15, 164:25, 166:8, 174:25, 253:21, 270:4, 279:3, 294:9, 294:10, 294:12, 295:6, 295:11, 295:14, 299:24, 307:10, 312:20, 312:21, 316:6</p> <p>also [27] - 5:25, 12:8, 21:16, 31:8, 50:17, 58:13, 66:11, 95:8, 99:8, 112:12, 133:8, 148:4, 172:19, 196:10, 207:18, 218:7, 230:6, 230:12, 230:20, 235:23, 247:8, 248:18, 261:10, 300:4, 310:9, 315:15, 318:12</p> <p>ALSO [1] - 3:18</p> <p>always [3] - 89:19, 90:7, 269:3</p> <p>am [7] - 10:20, 52:21, 241:16, 315:4, 318:3, 323:14, 323:17</p> <p>ambulance [21] - 17:16, 17:19, 17:21, 123:5, 136:12, 136:19, 136:24, 137:2, 137:3, 137:6, 137:17, 138:6, 163:16, 163:21, 171:14, 240:13, 250:6, 250:9, 250:14, 251:12, 258:7</p> <p>amount [2] - 65:7, 235:13</p> <p>amounts [1] - 184:19</p> <p>AND [2] - 4:5, 4:20</p> <p>AND/OR [2] - 322:8, 322:9</p>	<p>angry [5] - 229:19, 311:25, 312:3, 312:4, 312:5</p> <p>another [12] - 46:18, 70:19, 92:17, 95:8, 110:2, 114:20, 118:3, 119:20, 149:8, 215:2, 228:23, 252:20</p> <p>answer [131] - 7:7, 7:8, 7:11, 8:6, 8:9, 15:2, 15:24, 16:4, 19:16, 21:2, 23:23, 24:6, 30:8, 30:22, 31:15, 33:15, 37:16, 38:15, 40:15, 40:20, 44:18, 45:9, 47:16, 49:5, 50:23, 52:16, 53:22, 54:8, 55:7, 56:6, 56:14, 57:11, 59:6, 64:2, 64:16, 64:22, 65:5, 65:14, 66:21, 69:12, 70:22, 71:2, 71:10, 72:17, 74:18, 75:4, 75:18, 76:2, 76:15, 76:20, 77:9, 81:2, 84:19, 89:22, 90:4, 90:18, 92:7, 106:14, 107:6, 109:20, 110:5, 110:25, 115:13, 119:7, 123:9, 125:22, 126:23, 127:4, 129:6, 129:20, 133:19, 135:12, 139:19, 140:13, 144:12, 145:14, 146:14, 158:11, 160:22, 162:7, 162:18, 163:4, 163:13, 170:24, 172:18, 173:19, 176:2, 176:18, 177:14, 181:10, 189:11, 191:13, 193:13, 199:24, 200:19, 202:12, 202:20, 209:14, 209:25, 210:9, 210:11, 212:24, 214:9, 217:7, 218:9, 218:17, 219:7, 220:15, 224:9, 224:17, 225:25, 227:15, 231:10, 237:11, 250:16, 250:24, 257:9, 260:19, 270:12, 275:3, 276:20, 280:18, 290:11, 291:13, 297:6, 302:14, 307:19, 310:5, 315:23, 317:8, 317:17</p> <p>answered [3] - 46:13, 179:17, 253:22</p> <p>answers [1] - 7:6</p> <p>anthony [1] - 19:2</p> <p>anti [5] - 77:17, 77:20, 78:2, 78:5, 189:25</p> <p>anti-crime [5] - 77:17, 77:20, 78:2, 78:5, 189:25</p> <p>any [138] - 7:24, 8:18, 8:23, 9:2, 9:6, 9:9, 9:12, 9:15, 10:12, 18:12, 21:16, 22:7, 22:19, 22:22, 22:25, 23:18, 25:7, 27:7, 27:25, 28:6, 30:25, 31:12, 32:10, 33:20, 33:25, 34:21, 34:22, 35:9,</p>	<p>35:12, 37:4, 37:5, 37:13, 42:17, 44:4, 44:12, 45:5, 45:6, 45:12, 45:19, 46:18, 47:8, 49:2, 54:15, 55:18, 56:9, 60:16, 62:2, 64:5, 64:24, 65:6, 66:17, 74:8, 74:15, 77:4, 81:21, 81:22, 85:24, 90:12, 93:21, 101:9, 101:14, 105:20, 106:6, 108:15, 108:22, 113:2, 114:6, 114:13, 115:9, 115:10, 117:2, 117:12, 119:11, 121:15, 123:13, 124:3, 124:11, 124:19, 125:9, 127:6, 127:20, 129:25, 130:9, 132:23, 136:9, 137:9, 140:15, 142:19, 144:9, 154:4, 155:14, 157:15, 157:23, 161:17, 163:9, 164:16, 166:8, 167:6, 169:10, 174:21, 185:19, 186:24, 191:3, 192:13, 194:2, 194:6, 196:9, 202:9, 204:8, 209:18, 211:20, 211:21, 214:6, 242:8, 255:13, 255:17, 258:21, 258:24, 259:13, 263:7, 264:15, 265:16, 268:9, 271:18, 272:23, 274:8, 285:15, 301:20, 305:13, 306:19, 307:3, 307:4, 309:4, 310:14, 312:13, 318:9, 323:15</p> <p>anybody [1] - 20:15</p> <p>anymore [3] - 36:6, 93:21, 129:3</p> <p>anyone [17] - 4:11, 22:17, 23:15, 44:21, 44:22, 54:14, 57:6, 61:2, 76:11, 80:14, 124:15, 175:7, 175:23, 175:24, 246:18, 255:4, 274:15</p> <p>anything [41] - 24:17, 47:10, 53:7, 60:7, 60:11, 61:17, 84:23, 96:21, 100:11, 100:22, 113:12, 113:20, 115:6, 116:23, 117:9, 121:2, 136:13, 142:20, 143:21, 145:25, 155:10, 157:20, 161:18, 170:17, 170:18, 171:20, 182:22, 185:4, 188:6, 197:19, 230:8, 255:4, 272:10, 288:22, 291:4, 291:6, 294:4, 299:16, 303:21, 317:5, 317:14</p> <p>anyway [1] - 231:18</p> <p>anywhere [9] - 168:3, 209:17, 249:10, 262:7, 267:8, 309:6, 313:21, 313:24, 314:3</p>	<p>AO [4] - 215:20, 215:25, 226:17, 238:8</p> <p>APB [1] - 199:2</p> <p>apologize [6] - 73:2, 193:20, 221:9, 249:15, 279:25, 313:9</p> <p>appear [8] - 91:23, 168:10, 168:25, 169:9, 192:17, 229:17, 274:21, 306:18</p> <p>appears [2] - 249:2, 306:23</p> <p>applied [4] - 35:7, 35:20, 75:23, 170:17</p> <p>applies [2] - 70:3, 70:9</p> <p>apply [3] - 35:9, 35:16, 72:5</p> <p>appointment [1] - 35:4</p> <p>appreciate [2] - 26:9, 289:14</p> <p>apprehend [1] - 144:10</p> <p>apprehended [2] - 73:13, 200:15</p> <p>apprehension [1] - 317:13</p> <p>approach [1] - 120:13</p> <p>approached [2] - 47:2, 120:5</p> <p>appropriate [5] - 55:4, 109:3, 109:16, 123:4, 123:11</p> <p>approved [1] - 232:15</p> <p>approving [1] - 232:16</p> <p>approximate [2] - 28:17, 212:12</p> <p>approximately [38] - 13:6, 15:21, 28:20, 29:14, 34:6, 34:8, 37:7, 38:9, 39:8, 42:23, 45:24, 46:3, 58:3, 58:5, 82:9, 82:11, 82:19, 83:4, 85:4, 85:20, 86:3, 92:13, 96:14, 98:17, 104:19, 105:5, 105:24, 106:3, 106:23, 109:11, 109:14, 121:11, 123:15, 123:20, 149:17, 150:21, 180:20, 227:20</p> <p>approximation [1] - 159:16</p> <p>April [2] - 77:21, 77:23</p> <p>are [63] - 1:12, 3:14, 4:21, 5:2, 9:2, 10:4, 21:6, 35:2, 40:17, 62:22, 65:24, 66:6, 68:6, 82:25, 83:9, 83:13, 83:14, 84:20, 87:15, 88:7, 89:18, 91:18, 102:16, 107:2, 111:19, 142:14, 147:6, 180:24, 207:22, 207:23, 214:2, 214:10, 219:2, 225:8, 227:16, 239:21, 248:19, 249:20, 251:15, 252:8, 256:3, 256:5, 259:20, 269:9, 269:20, 278:22, 285:20, 293:15, 297:20, 298:13, 300:16, 300:17, 300:18, 303:4, 303:16, 307:14, 307:15, 311:4, 315:7, 316:7,</p>
---	--	---	---

<p>318:7, 318:23 area [11] - 72:3, 124:4, 182:25, 183:9, 190:5, 195:2, 214:7, 217:22, 232:2, 234:4, 275:20 arm [21] - 114:25, 115:3, 135:15, 167:8, 167:11, 167:16, 167:18, 226:21, 228:17, 228:22, 230:11, 238:11, 250:19, 254:2, 257:6, 257:16, 257:18, 281:3, 281:4, 309:14 arms [7] - 206:3, 228:2, 228:3, 309:11, 310:3, 310:9 around [14] - 35:19, 39:16, 97:20, 97:23, 101:24, 107:14, 113:8, 148:24, 168:15, 229:5, 294:24, 311:17, 314:16, 314:18 arrangement [1] - 176:24 arrest [54] - 24:8, 24:14, 25:6, 26:13, 26:17, 56:21, 82:7, 112:7, 114:19, 116:21, 120:9, 125:7, 129:9, 145:3, 146:6, 174:3, 174:4, 174:15, 178:15, 183:21, 186:18, 186:25, 187:17, 188:8, 189:14, 191:9, 206:2, 206:3, 209:11, 211:21, 221:20, 221:23, 222:17, 223:9, 224:3, 225:23, 226:20, 228:7, 229:9, 232:25, 233:3, 235:2, 238:16, 244:2, 244:3, 279:12, 279:17, 280:11, 280:12, 280:23, 281:10, 282:11, 317:13 Arrest [1] - 321:12 arrested [8] - 42:11, 205:23, 209:3, 215:23, 216:7, 217:2, 217:3, 217:12 arrestee [1] - 118:10 arresting [8] - 46:15, 112:9, 215:20, 232:3, 234:5, 234:6, 258:19, 281:13 arrests [3] - 81:23, 81:25, 82:9 arrive [4] - 29:22, 116:4, 117:13, 151:24 arrived [4] - 116:6, 138:14, 163:17, 163:21 as [127] - 1:11, 3:13, 4:12, 4:15, 4:21, 6:7, 6:10, 13:25, 14:21, 15:9, 16:25, 24:20, 26:3, 27:25, 39:23, 39:24, 45:11, 46:11, 52:3, 53:17, 58:8, 62:16, 63:4, 63:14, 67:19, 67:24, 68:2, 75:7, 80:3, 82:21, 89:12, 98:21, 105:20, 106:5, 106:17, 107:12, 107:14, 110:19,</p>	<p>118:13, 124:7, 140:16, 140:18, 144:13, 157:10, 161:15, 202:13, 202:14, 202:15, 202:16, 203:15, 204:11, 204:15, 204:16, 206:11, 206:23, 207:2, 207:4, 207:22, 221:18, 221:23, 221:25, 225:20, 232:23, 233:3, 233:5, 240:22, 241:3, 241:6, 241:7, 242:22, 242:25, 243:3, 245:19, 248:9, 248:11, 248:13, 253:19, 255:21, 256:2, 256:7, 256:9, 259:19, 259:24, 260:2, 263:17, 263:21, 263:22, 273:4, 273:9, 273:10, 277:2, 277:7, 277:8, 278:9, 278:13, 278:14, 283:7, 283:9, 283:10, 285:19, 285:22, 285:24, 297:20, 298:15, 299:4, 301:16, 306:17, 308:21, 310:12, 310:15, 315:25 Asian [1] - 95:15 aside [23] - 14:11, 22:24, 27:5, 27:23, 28:4, 33:21, 35:10, 44:9, 45:18, 61:3, 61:14, 74:13, 77:3, 79:18, 80:15, 81:22, 82:4, 117:13, 207:12, 211:19, 222:11, 267:7, 274:5 ask [47] - 7:6, 8:6, 30:22, 36:21, 52:11, 57:6, 62:11, 63:2, 64:8, 68:11, 69:25, 72:9, 74:11, 89:14, 96:6, 114:4, 114:9, 117:2, 122:20, 122:24, 129:22, 129:25, 131:13, 136:3, 149:11, 159:17, 167:4, 169:21, 170:3, 170:4, 171:8, 172:21, 173:2, 175:23, 183:11, 188:17, 188:20, 189:6, 191:17, 218:22, 225:17, 229:10, 246:18, 248:21, 251:11, 272:23, 300:11 asked [18] - 17:2, 26:4, 57:16, 89:9, 133:3, 136:5, 155:13, 166:8, 170:20, 203:10, 203:25, 205:20, 227:11, 246:13, 261:19, 270:4, 290:21, 316:6 asking [12] - 6:22, 22:5, 65:17, 66:14, 124:11, 168:15, 171:13, 227:16, 259:12, 273:21, 289:2, 291:22 asks [1] - 240:6 assigned [2] - 37:21, 41:9 assignment [12] - 11:7,</p>	<p>36:9, 37:18, 38:13, 39:21, 40:3, 41:20, 77:10, 78:17, 79:2, 79:18, 86:13 assistance [2] - 240:7, 240:11 associate's [1] - 34:12 assume [8] - 7:21, 177:4, 208:15, 212:21, 225:5, 291:20, 295:6, 315:5 assumed [1] - 170:8 assuming [1] - 201:19 Astoria [1] - 235:23 at [422] - 2:9, 5:10, 7:24, 9:21, 13:19, 13:20, 14:3, 15:4, 16:13, 16:21, 17:12, 18:3, 19:4, 19:6, 19:19, 19:24, 21:10, 22:25, 23:18, 24:11, 26:20, 26:23, 27:7, 29:6, 29:22, 30:4, 32:3, 32:6, 32:10, 35:25, 36:12, 36:25, 37:5, 37:10, 37:19, 38:25, 39:9, 43:2, 49:6, 49:14, 51:16, 51:22, 52:5, 54:10, 54:12, 54:21, 55:2, 55:10, 55:11, 55:12, 56:18, 56:20, 62:2, 62:7, 68:13, 69:16, 71:13, 73:2, 73:24, 74:15, 79:3, 82:18, 82:25, 83:3, 84:11, 87:19, 88:4, 88:8, 94:4, 98:25, 99:3, 99:12, 100:8, 101:6, 101:7, 101:10, 101:11, 101:14, 101:23, 102:2, 103:11, 106:6, 106:19, 107:15, 108:6, 108:7, 108:8, 108:14, 108:22, 109:22, 110:6, 110:18, 111:10, 111:11, 111:19, 112:9, 112:12, 112:14, 113:2, 113:11, 113:13, 113:20, 114:3, 114:14, 114:16, 114:18, 114:22, 114:23, 115:3, 115:5, 115:10, 116:21, 117:5, 117:6, 118:25, 119:19, 120:4, 120:5, 120:11, 121:25, 122:11, 125:4, 125:9, 126:14, 127:6, 128:21, 130:10, 131:10, 131:25, 132:2, 132:20, 135:10, 135:19, 136:6, 137:2, 137:13, 138:6, 139:7, 140:15, 140:20, 140:22, 140:23, 142:5, 142:18, 145:5, 148:17, 148:25, 153:13, 155:25, 156:8, 156:21, 157:2, 157:14, 158:13, 159:5, 159:18, 159:21, 159:25, 160:20, 160:24, 161:11, 161:19, 162:9, 162:15, 162:22,</p>	<p>163:17, 163:20, 164:4, 164:10, 164:20, 165:2, 165:11, 165:18, 165:25, 166:14, 167:7, 168:6, 168:18, 169:10, 171:9, 171:19, 171:20, 173:8, 173:12, 174:17, 174:21, 174:24, 177:7, 177:15, 177:24, 178:24, 179:7, 180:9, 180:11, 180:25, 182:14, 183:21, 184:2, 185:2, 185:13, 185:18, 185:24, 187:6, 187:13, 189:5, 189:25, 190:8, 190:20, 191:3, 191:8, 194:4, 194:5, 194:12, 194:13, 194:23, 194:24, 195:7, 195:14, 195:15, 195:16, 195:24, 198:3, 198:5, 198:16, 199:12, 199:14, 200:9, 201:17, 202:21, 203:7, 204:19, 205:12, 205:16, 205:18, 206:15, 207:6, 208:10, 209:3, 209:5, 209:11, 210:20, 211:12, 211:15, 211:16, 213:3, 213:22, 220:2, 220:6, 220:19, 222:4, 222:15, 223:13, 223:20, 225:9, 225:20, 225:21, 226:10, 226:13, 228:20, 229:8, 229:19, 230:21, 230:22, 230:23, 232:20, 233:10, 235:6, 235:21, 235:25, 237:24, 237:25, 238:4, 238:5, 239:2, 240:4, 240:15, 241:13, 242:6, 242:12, 243:11, 246:3, 246:14, 246:19, 247:9, 248:22, 249:3, 249:9, 252:11, 255:11, 255:14, 256:4, 256:15, 257:4, 257:7, 257:10, 257:21, 257:22, 257:23, 257:25, 258:3, 258:6, 258:12, 258:16, 259:7, 260:5, 260:9, 261:4, 261:21, 264:12, 264:18, 265:19, 266:17, 269:15, 269:20, 273:13, 277:10, 277:20, 278:5, 278:16, 278:20, 278:21, 280:10, 280:22, 281:9, 281:12, 283:13, 283:21, 284:11, 284:21, 284:22, 286:4, 286:16, 286:18, 287:2, 287:5, 287:24, 288:5, 289:12, 289:16, 289:21, 290:4, 290:6, 290:12, 290:18, 290:25, 292:22, 292:23, 293:3, 293:6, 293:24, 294:14, 294:15,</p>
--	---	--	---

<p>294:20, 295:2, 295:5, 298:19, 298:22, 299:13, 299:20, 299:25, 300:10, 300:14, 300:24, 301:5, 301:10, 301:13, 301:17, 301:22, 302:3, 302:16, 303:15, 303:21, 303:24, 304:2, 304:4, 304:10, 304:21, 304:25, 305:17, 306:8, 306:18, 307:2, 307:5, 307:6, 307:9, 307:14, 307:25, 308:13, 308:20, 309:5, 310:10, 310:21, 311:3, 311:4, 312:14, 312:17, 312:22, 313:6, 313:10, 314:12, 314:20, 314:23, 314:25, 315:7, 315:18, 316:22, 318:5, 319:2, 320:10</p> <p>At [1] - 215:18</p> <p>attached [1] - 279:15</p> <p>attention [18] - 55:18, 107:11, 109:4, 109:8, 109:23, 144:19, 156:10, 156:12, 158:16, 160:9, 223:12, 245:15, 245:22, 246:15, 247:3, 247:15, 303:7, 303:10</p> <p>attorney [6] - 21:24, 27:6, 27:12, 273:24, 274:3, 300:5</p> <p>attorney's [1] - 314:13</p> <p>attorneys [10] - 8:2, 21:21, 22:8, 22:12, 22:25, 25:13, 26:11, 61:3, 210:7, 274:6</p> <p>Attorneys [2] - 3:4, 3:10</p> <p>August [21] - 47:25, 48:11, 48:17, 68:8, 76:13, 79:9, 81:18, 141:23, 142:2, 195:11, 205:10, 206:9, 206:13, 233:24, 256:25, 264:21, 267:16, 272:21, 273:7, 276:18, 317:4</p> <p>august [1] - 206:9</p> <p>Authority [3] - 35:13, 35:14, 35:17</p> <p>authorized [1] - 4:11</p> <p>Avenue [29] - 82:20, 83:6, 87:13, 87:20, 87:23, 88:15, 91:13, 97:25, 98:4, 98:6, 98:14, 101:12, 103:20, 104:8, 105:25, 106:6, 106:11, 106:18, 107:13, 130:20, 139:10, 149:2, 156:7, 159:23, 187:15, 194:16, 205:17, 300:14</p> <p>aware [2] - 10:4, 298:14</p> <p>away [53] - 11:22, 17:4, 17:22, 51:18, 51:19, 75:10, 82:19, 83:4, 83:5, 84:8, 92:21, 93:5, 93:9, 94:4,</p>	<p>96:16, 97:20, 97:21, 98:19, 99:24, 101:19, 101:24, 106:17, 106:20, 106:23, 107:2, 108:8, 109:16, 116:18, 124:24, 127:14, 128:9, 137:25, 138:22, 143:6, 143:20, 143:23, 144:16, 159:14, 162:10, 167:5, 202:7, 215:19, 218:14, 226:16, 226:17, 228:5, 238:8, 252:12, 296:2, 306:5, 309:2, 310:24, 315:3</p> <p style="text-align: center;">B</p> <p>B [3] - 71:23, 74:4, 321:2</p> <p>b/s/h/a [1] - 2:6</p> <p>baby [1] - 78:7</p> <p>back [103] - 16:19, 16:24, 17:4, 18:6, 19:23, 20:11, 25:23, 26:10, 26:21, 47:2, 53:17, 76:7, 78:3, 78:13, 95:20, 96:8, 98:14, 100:9, 100:22, 115:22, 116:11, 116:12, 117:25, 118:6, 123:17, 124:2, 125:6, 125:18, 125:19, 128:11, 128:14, 128:16, 128:19, 130:13, 130:15, 130:18, 130:21, 133:7, 133:13, 133:21, 134:2, 134:6, 134:14, 145:4, 147:15, 149:11, 151:8, 154:18, 155:13, 155:18, 162:22, 167:16, 167:20, 179:13, 179:20, 179:21, 180:6, 180:12, 180:16, 180:21, 182:16, 182:22, 182:23, 184:4, 186:3, 187:15, 191:14, 191:18, 191:21, 191:22, 193:9, 195:4, 208:5, 208:7, 208:10, 216:22, 217:4, 228:14, 228:15, 230:25, 233:25, 237:22, 240:14, 246:7, 249:16, 278:22, 281:21, 281:23, 282:2, 287:11, 287:12, 289:8, 289:15, 292:7, 297:16, 301:5, 301:7, 304:13, 308:18, 313:23, 314:7, 317:3</p> <p>Back [3] - 181:22, 237:19, 264:9</p> <p>backed [1] - 310:23</p> <p>backing [4] - 19:20, 189:9, 189:12, 189:21</p> <p>backpack [33] - 125:11, 125:13, 125:17, 125:25, 126:4, 126:7, 126:11, 126:17, 127:7, 127:17, 127:20, 127:24, 128:4,</p>	<p>164:20, 164:25, 165:11, 165:21, 181:2, 181:5, 181:6, 182:4, 182:7, 183:7, 183:13, 184:14, 185:5, 206:7, 226:23, 238:20, 315:21, 316:2, 316:10, 316:14</p> <p>backtrack [1] - 165:6</p> <p>backup [1] - 16:22</p> <p>backyard [5] - 16:20, 190:6, 190:18, 190:20, 190:25</p> <p>bad [3] - 152:18, 213:20, 291:8</p> <p>bag [23] - 27:10, 27:16, 165:23, 165:24, 174:9, 174:13, 182:21, 184:19, 184:25, 185:14, 226:22, 238:13, 289:20, 289:21, 290:3, 290:17, 290:25, 291:3, 291:5, 292:23, 293:3, 293:6</p> <p>bags [2] - 187:20, 206:6</p> <p>balance [1] - 169:10</p> <p>bandages [1] - 170:18</p> <p>bar [5] - 119:21, 119:23, 147:21, 148:6, 154:15</p> <p>BAREE [1] - 3:6</p> <p>baree [1] - 5:21</p> <p>Baree [1] - 6:20</p> <p>barrier [2] - 43:16, 118:9</p> <p>base [1] - 159:15</p> <p>based [5] - 5:7, 177:15, 177:17, 224:24, 275:23</p> <p>Basically [1] - 138:24</p> <p>basically [15] - 40:24, 78:23, 79:23, 91:18, 96:10, 128:23, 146:4, 183:20, 217:12, 217:16, 219:19, 228:3, 231:4, 311:3, 313:10</p> <p>basis [1] - 282:10</p> <p>Bate [3] - 239:4, 256:5, 263:19</p> <p>bathroom [3] - 8:3, 263:25, 291:7</p> <p>be [79] - 4:8, 4:10, 4:14, 6:22, 8:16, 8:22, 10:13, 12:25, 13:10, 21:12, 30:4, 31:25, 36:21, 39:16, 58:7, 62:12, 66:15, 73:9, 80:19, 80:22, 80:23, 81:11, 81:12, 91:23, 100:9, 109:16, 118:8, 123:4, 132:9, 141:14, 141:15, 141:16, 162:10, 172:4, 173:12, 175:24, 192:3, 196:4, 196:23, 197:15, 199:6, 200:11, 210:16, 214:12, 218:19, 218:20, 219:14, 220:10, 226:21, 229:17, 229:23, 235:20, 236:11, 236:13, 236:19, 238:11, 249:2,</p>	<p>252:19, 261:15, 267:8, 267:9, 270:22, 271:19, 272:7, 278:25, 281:6, 292:3, 299:13, 300:20, 302:24, 306:18, 306:23, 310:10, 310:15, 311:9, 313:12, 317:18, 318:7</p> <p>beat [1] - 232:10</p> <p>became [2] - 29:7, 29:14</p> <p>because [52] - 7:4, 27:18, 51:15, 60:6, 60:8, 64:19, 76:7, 93:24, 95:9, 95:18, 109:7, 118:19, 123:12, 131:2, 144:6, 159:21, 161:4, 172:16, 182:9, 183:4, 189:24, 190:22, 194:18, 195:13, 195:18, 196:23, 196:25, 201:16, 210:17, 212:15, 214:20, 217:3, 219:11, 222:23, 228:24, 231:6, 232:18, 236:15, 238:23, 240:17, 245:12, 249:16, 253:25, 269:4, 279:21, 284:5, 305:9, 307:22, 310:22, 310:23, 312:20, 314:5</p> <p>become [2] - 29:11, 46:14</p> <p>been [49] - 6:8, 12:14, 27:25, 28:5, 28:9, 33:20, 34:21, 35:19, 37:10, 37:13, 42:4, 42:10, 42:13, 42:16, 45:21, 46:17, 52:8, 55:4, 58:7, 66:17, 66:18, 74:12, 74:14, 75:15, 75:24, 76:11, 77:4, 78:14, 113:25, 119:10, 141:18, 145:9, 162:4, 174:18, 175:21, 202:24, 210:6, 217:22, 228:7, 246:3, 247:9, 253:23, 257:5, 257:14, 257:18, 269:3, 286:11, 287:19, 320:4</p> <p>before [71] - 2:11, 4:11, 4:13, 6:23, 7:7, 8:7, 12:22, 13:8, 14:6, 17:23, 22:6, 23:10, 27:11, 29:7, 29:14, 29:16, 52:18, 68:16, 68:25, 81:4, 85:13, 85:18, 87:2, 88:11, 96:21, 98:18, 101:15, 106:2, 108:3, 108:7, 108:8, 108:11, 108:19, 113:3, 127:13, 137:17, 141:11, 141:19, 141:23, 163:16, 163:20, 180:21, 181:13, 204:23, 207:10, 222:9, 225:15, 227:11, 227:17, 233:15, 241:18, 241:25, 243:15, 250:5, 251:19, 253:6, 256:17, 264:16, 267:2, 273:17, 277:15, 279:5, 283:17, 286:8,</p>
---	---	--	---

<p>286:13, 287:15, 291:7, 299:20, 301:7, 313:16, 320:18</p> <p>beg [1] - 287:14</p> <p>beginning [4] - 111:19, 294:15, 316:23, 318:5</p> <p>behalf [1] - 5:9</p> <p>behind [6] - 19:14, 19:23, 107:2, 107:19, 139:13, 159:22</p> <p>being [16] - 1:11, 3:13, 5:10, 36:22, 46:9, 58:11, 60:8, 127:7, 134:17, 165:9, 166:17, 171:25, 206:17, 247:9, 272:9, 315:2</p> <p>belief [1] - 139:15</p> <p>believable [1] - 58:8</p> <p>believe [23] - 18:6, 107:17, 140:9, 163:10, 164:4, 198:11, 199:21, 200:2, 200:6, 201:4, 201:8, 204:6, 212:14, 230:16, 250:7, 261:4, 263:11, 276:6, 276:9, 276:12, 285:2, 285:5, 293:13</p> <p>belongings [1] - 125:9</p> <p>belongs [1] - 164:25</p> <p>below [3] - 215:2, 215:15, 252:24</p> <p>belts [3] - 268:25, 269:4, 269:10</p> <p>Bergman [2] - 5:23, 22:15</p> <p>BERGMAN [159] - 3:15, 14:24, 15:23, 16:3, 19:15, 20:25, 21:15, 22:14, 23:22, 24:5, 24:19, 25:16, 25:25, 30:7, 30:21, 31:14, 33:14, 37:15, 40:14, 40:19, 44:17, 45:8, 47:15, 49:4, 50:22, 52:15, 53:21, 54:7, 55:6, 56:5, 56:13, 57:10, 59:5, 62:11, 63:25, 64:15, 65:13, 65:24, 66:4, 66:20, 68:19, 69:11, 70:21, 70:25, 71:9, 72:16, 74:17, 75:3, 75:17, 75:25, 76:14, 76:19, 77:8, 80:25, 84:18, 89:21, 90:3, 90:17, 92:6, 93:12, 106:13, 107:5, 109:19, 110:4, 110:24, 115:12, 119:6, 123:8, 125:21, 126:22, 127:3, 129:5, 129:19, 133:18, 135:11, 139:18, 140:12, 144:11, 145:13, 146:13, 147:5, 147:17, 154:11, 158:10, 160:21, 162:6, 162:17, 163:3, 163:12, 168:20, 170:23, 172:17, 173:18, 175:25, 176:17, 177:13, 181:9, 181:15, 189:10, 191:12,</p>	<p>193:12, 199:23, 200:18, 202:11, 202:19, 203:23, 209:13, 209:24, 210:8, 212:23, 214:8, 217:6, 217:24, 218:8, 218:16, 219:6, 220:9, 220:12, 220:14, 224:8, 224:16, 225:24, 227:14, 231:9, 237:5, 237:9, 240:24, 241:10, 242:18, 247:11, 250:15, 250:23, 257:8, 260:19, 263:10, 270:11, 271:16, 272:14, 273:5, 273:23, 274:2, 275:2, 276:19, 278:10, 279:20, 279:24, 280:17, 290:10, 291:12, 293:11, 297:5, 302:13, 307:18, 308:8, 310:4, 315:22, 317:7, 317:16, 318:16</p> <p>beside [2] - 204:24, 244:15</p> <p>best [2] - 8:10, 229:23</p> <p>better [6] - 52:12, 79:6, 191:17, 249:16, 315:15</p> <p>between [14] - 4:6, 16:23, 85:14, 105:10, 118:9, 149:5, 150:19, 151:3, 153:17, 294:23, 295:7, 295:9, 307:4, 315:11</p> <p>bicycle [28] - 72:7, 72:12, 74:16, 109:4, 109:12, 119:10, 139:25, 143:24, 147:22, 148:5, 157:16, 158:17, 158:21, 158:25, 160:13, 160:16, 160:19, 172:23, 200:6, 201:21, 212:21, 212:25, 214:22, 231:18, 260:15, 271:23, 274:12, 284:13</p> <p>bicycles [3] - 40:25, 70:4, 79:24</p> <p>bicyclist [31] - 63:22, 63:23, 74:16, 86:9, 86:11, 86:14, 87:16, 88:18, 89:16, 92:23, 93:3, 93:16, 96:22, 97:2, 97:12, 97:19, 109:17, 130:14, 130:24, 143:7, 154:21, 191:10, 191:17, 192:2, 213:19, 215:19, 215:22, 216:7, 217:12, 218:7, 218:15</p> <p>bicyclists [6] - 87:21, 91:17, 91:21, 92:14, 92:19, 97:4</p> <p>bike [82] - 25:4, 26:18, 59:15, 64:12, 64:14, 65:3, 74:14, 74:25, 79:19, 79:20, 88:22, 89:15, 90:13, 96:12, 97:24, 101:2, 104:20, 106:2, 106:23, 107:4, 107:10,</p>	<p>110:7, 110:15, 110:17, 110:22, 111:24, 118:25, 123:6, 138:4, 138:21, 138:24, 139:5, 140:10, 142:13, 143:10, 143:15, 143:17, 144:23, 146:8, 156:23, 160:19, 160:24, 160:25, 161:3, 161:5, 161:9, 161:13, 162:5, 177:8, 178:14, 187:13, 191:14, 203:20, 205:21, 205:22, 208:23, 219:14, 226:11, 226:15, 226:19, 229:22, 231:7, 238:2, 238:7, 238:10, 252:12, 256:25, 261:6, 261:25, 262:10, 264:20, 264:24, 266:24, 269:12, 271:4, 271:11, 272:7, 283:2, 301:2, 301:13, 301:19, 306:8</p> <p>bikes [1] - 71:8</p> <p>biking [2] - 107:15, 203:2</p> <p>birth [1] - 244:23</p> <p>birthday [1] - 244:13</p> <p>bit [12] - 76:8, 98:2, 149:11, 171:22, 226:25, 228:4, 229:5, 289:9, 301:5, 301:7, 302:23, 307:17</p> <p>black [2] - 95:15, 304:17</p> <p>blackout [1] - 204:24</p> <p>blank [3] - 217:21, 255:5, 255:6</p> <p>bleeding [2] - 167:23, 167:25</p> <p>block [12] - 16:17, 88:14, 90:10, 104:15, 104:16, 104:17, 105:11, 105:14, 111:12, 111:20, 149:3, 178:13</p> <p>blocked [2] - 283:3, 310:22</p> <p>blood [2] - 154:4, 323:16</p> <p>blue [5] - 301:24, 302:6, 302:12, 305:24, 317:2</p> <p>body [12] - 113:8, 125:18, 152:24, 168:15, 228:14, 228:25, 230:10, 262:11, 281:5, 308:18, 309:2, 309:15</p> <p>boned [1] - 29:21</p> <p>bones [1] - 30:25</p> <p>book [15] - 24:11, 116:21, 142:9, 142:10, 204:12, 204:15, 209:17, 210:19, 211:20, 224:14, 225:11, 225:19, 225:22, 267:8, 321:9</p> <p>Booking [2] - 182:10, 184:12</p> <p>booking [1] - 232:24</p> <p>booth [2] - 43:13, 43:19</p> <p>both [9] - 68:9, 68:10, 100:4, 219:18, 219:20, 219:22, 230:20, 248:19,</p>	<p>299:12</p> <p>bottom [8] - 198:3, 223:13, 223:21, 237:24, 249:4, 255:16, 269:16, 289:16</p> <p>Box [1] - 212:6</p> <p>box [13] - 212:14, 214:10, 214:14, 215:2, 234:6, 239:8, 239:9, 246:25, 247:18, 253:7, 253:14, 254:6</p> <p>boxes [7] - 213:25, 214:7, 220:22, 221:3, 281:2, 282:8, 282:19</p> <p>brace [1] - 170:17</p> <p>brakes [1] - 89:16</p> <p>break [13] - 7:25, 8:7, 25:17, 30:25, 147:6, 147:8, 147:10, 287:13, 294:23, 295:4, 295:5, 295:15, 295:17</p> <p>brief [1] - 275:13</p> <p>briefly [1] - 313:23</p> <p>bring [2] - 55:18, 182:12</p> <p>bringing [1] - 60:22</p> <p>broken [3] - 140:23, 141:22, 142:4</p> <p>Brooklyn [1] - 5:7</p> <p>brought [1] - 246:7</p> <p>buds [1] - 139:4</p> <p>bumper [4] - 212:15, 212:17, 212:20, 260:12</p> <p>burglary [1] - 16:21</p> <p>business [1] - 6:16</p> <p>busy [1] - 230:22</p> <p>but [81] - 14:25, 20:13, 27:15, 28:20, 29:4, 30:22, 32:18, 33:15, 35:24, 49:22, 50:2, 50:18, 57:23, 60:7, 64:5, 66:16, 68:9, 71:7, 88:13, 108:18, 108:21, 113:22, 115:5, 117:24, 123:24, 134:25, 151:13, 152:22, 153:16, 158:7, 159:8, 161:2, 161:8, 162:3, 162:11, 162:21, 166:11, 168:17, 170:7, 175:10, 178:3, 180:12, 197:16, 201:18, 203:6, 203:25, 211:13, 214:17, 217:17, 218:22, 219:18, 220:2, 220:7, 221:11, 229:4, 229:15, 235:12, 236:10, 238:19, 238:23, 239:19, 241:25, 250:10, 250:11, 261:18, 263:11, 266:2, 275:2, 291:19, 292:11, 294:3, 301:7, 303:25, 305:16, 308:17, 309:8, 312:10, 312:21, 313:10, 313:11, 318:6</p> <p>button [1] - 43:15</p> <p>by [94] - 2:7, 4:5, 4:10, 4:16,</p>
--	--	--	--

6:8, 22:14, 25:25, 30:4, 41:11, 44:19, 44:21, 44:22, 46:23, 49:9, 50:11, 58:8, 60:19, 61:24, 63:12, 68:2, 71:20, 72:20, 76:11, 76:23, 87:20, 95:7, 99:4, 106:22, 110:13, 118:15, 126:24, 132:9, 133:3, 146:16, 146:19, 146:23, 147:2, 147:17, 158:20, 158:24, 159:6, 161:18, 167:15, 183:22, 187:12, 194:11, 196:23, 204:17, 205:15, 206:17, 207:4, 212:11, 212:14, 212:17, 213:20, 215:24, 221:25, 223:14, 228:2, 233:5, 236:3, 236:7, 241:8, 243:3, 248:13, 256:9, 260:2, 260:11, 263:23, 273:11, 273:24, 274:3, 277:8, 278:15, 281:7, 282:2, 283:11, 284:20, 285:24, 295:10, 295:11, 298:11, 298:23, 306:11, 306:13, 307:23, 310:18, 312:25, 317:10, 320:10, 321:23, 323:13, 323:16 BY [4] - 3:6, 3:15, 6:11, 322:4	can [163] - 7:12, 15:2, 15:24, 16:4, 19:16, 21:2, 24:17, 30:8, 30:22, 31:15, 33:15, 33:16, 37:16, 40:15, 40:20, 44:18, 45:9, 47:16, 49:5, 50:23, 52:16, 53:22, 54:8, 55:7, 56:6, 56:14, 57:11, 59:6, 63:15, 64:2, 64:16, 65:10, 65:14, 65:20, 66:21, 67:19, 69:12, 70:22, 71:2, 71:10, 71:13, 71:21, 72:17, 74:2, 74:18, 75:4, 75:7, 75:18, 76:2, 76:6, 76:15, 76:20, 77:9, 81:2, 82:22, 84:19, 89:22, 90:4, 90:18, 92:7, 106:14, 107:6, 109:20, 110:5, 110:25, 115:13, 119:7, 123:9, 125:22, 126:23, 127:4, 129:6, 129:20, 133:19, 135:12, 139:19, 140:13, 144:9, 144:12, 145:14, 146:14, 157:5, 158:11, 160:22, 162:7, 162:18, 163:4, 163:13, 170:24, 172:18, 173:19, 176:2, 176:18, 177:14, 181:10, 181:15, 182:13, 184:24, 189:11, 191:13, 193:13, 196:25, 199:11, 199:24, 200:19, 202:12, 202:20, 204:10, 206:22, 209:14, 209:25, 210:9, 212:24, 214:9, 217:7, 218:9, 218:17, 219:7, 220:15, 221:17, 222:3, 224:9, 224:17, 225:25, 227:15, 228:17, 231:10, 232:22, 237:6, 240:21, 241:2, 248:8, 250:16, 250:24, 251:12, 251:14, 255:20, 255:25, 257:9, 263:24, 264:11, 270:12, 273:3, 276:20, 278:8, 278:23, 280:18, 281:15, 283:6, 285:18, 286:3, 290:11, 291:13, 297:6, 299:13, 302:14, 305:6, 305:7, 307:19, 310:5, 315:23, 317:8, 317:17 Can [5] - 25:16, 237:13, 240:25, 242:21, 259:18 can you [38] - 9:23, 16:9, 19:10, 28:16, 44:19, 71:17, 72:19, 73:6, 73:20, 81:3, 199:15, 205:8, 205:14, 205:24, 207:6, 212:4, 213:16, 215:17, 226:8, 237:22, 252:9, 257:16, 277:2, 277:10, 280:25, 281:23, 282:17, 287:7, 288:5, 289:19, 290:14,	294:19, 294:21, 299:14, 307:21, 314:22, 315:10, 315:15 can't [9] - 7:13, 7:17, 118:18, 268:7, 268:11, 269:18, 272:10, 303:25, 314:4 cancer [1] - 62:8 Cantalino [14] - 48:10, 62:4, 145:7, 145:21, 145:22, 145:25, 146:11, 171:8, 173:4, 173:10, 174:25, 232:15, 245:11, 246:9 Cantalino's [1] - 247:25 capability [1] - 72:2 capacities [2] - 1:11, 3:13 caption [1] - 5:15 car [149] - 16:24, 17:2, 27:2, 28:5, 28:6, 28:8, 28:14, 28:21, 29:15, 29:18, 31:10, 31:22, 31:25, 32:3, 32:12, 37:25, 59:15, 65:3, 74:16, 80:8, 83:4, 83:5, 84:8, 87:19, 89:7, 89:18, 90:11, 90:24, 91:5, 91:7, 91:8, 92:21, 93:5, 93:8, 94:4, 94:5, 94:15, 95:7, 95:18, 95:21, 95:23, 96:6, 96:8, 96:11, 96:22, 98:19, 100:3, 100:14, 100:22, 102:13, 103:24, 104:20, 106:19, 110:2, 110:8, 111:25, 112:6, 113:7, 118:7, 118:18, 118:20, 119:22, 119:24, 120:6, 120:8, 120:25, 121:5, 121:15, 121:21, 121:24, 123:7, 138:3, 138:10, 138:25, 139:17, 140:6, 140:11, 141:14, 141:15, 141:16, 141:19, 141:22, 142:5, 143:16, 147:22, 149:6, 149:24, 150:8, 150:18, 150:20, 151:6, 151:7, 151:21, 152:15, 153:4, 153:6, 154:9, 154:15, 155:3, 155:13, 155:18, 157:16, 158:16, 159:11, 171:12, 178:14, 180:4, 180:6, 180:12, 187:12, 195:7, 205:22, 213:18, 215:22, 226:18, 227:20, 227:23, 231:7, 238:9, 260:17, 261:24, 262:4, 262:15, 266:13, 267:3, 267:15, 267:17, 268:9, 269:10, 270:7, 272:8, 300:23, 301:18, 302:12, 304:14, 304:16, 304:17, 304:19, 304:25, 305:3, 305:9, 305:18, 305:24, 305:25,	310:17, 310:22, 310:23, 312:25 card [5] - 242:23, 242:25, 243:8, 246:2, 321:14 cards [1] - 246:10 care [2] - 199:9, 252:19 career [1] - 236:18 carry [1] - 184:11 cars [12] - 16:23, 71:7, 82:19, 149:5, 150:19, 151:3, 153:9, 153:17, 231:2, 300:16, 300:18, 311:3 CARTER [1] - 3:8 casalina [1] - 134:21 Case [1] - 1:6 case [19] - 5:15, 8:21, 15:13, 51:10, 51:11, 52:14, 58:2, 58:11, 60:3, 123:10, 182:22, 197:6, 197:7, 198:21, 287:23, 288:2, 290:6, 297:4, 298:10 catching [1] - 107:7 cause [8] - 63:17, 63:18, 143:25, 144:2, 159:9, 159:21, 215:21, 220:19 caused [5] - 60:16, 159:18, 187:13, 283:4, 310:24 CCRB [11] - 24:2, 24:25, 27:5, 76:25, 77:3, 139:7, 207:18, 291:2, 291:4, 299:25, 300:3 cell [15] - 135:24, 135:25, 136:9, 137:2, 137:4, 137:11, 164:5, 164:23, 164:25, 166:14, 166:15, 166:16, 169:14, 169:18, 183:9 center [2] - 155:5, 182:25 Central [2] - 182:10, 184:12 certain [3] - 64:25, 65:7, 300:10 certificates [1] - 34:23 certification [1] - 4:8 certify [3] - 320:4, 323:9, 323:14 CERTIFY [1] - 320:8 Cevallos [3] - 208:16, 209:2, 211:6 cevallos [2] - 210:25, 213:10 cevallos' [1] - 210:18 Cevallos' [3] - 213:2, 213:6, 270:23 Chaffer [2] - 41:23, 41:24 change [3] - 39:22, 235:18, 287:12 changed [2] - 197:20 changes [4] - 8:18, 8:23, 194:3, 194:7 chaperone [1] - 316:25 characterized [1] - 310:15
C			
C [7] - 3:2, 41:25, 71:24, 74:5, 320:2, 323:2 C-H-A-F-F-E-R [1] - 41:25 cage [4] - 118:7, 118:8, 118:19, 118:20 call [19] - 17:4, 123:4, 136:18, 136:23, 136:25, 137:3, 138:6, 146:11, 182:13, 200:21, 200:24, 201:3, 203:19, 225:5, 236:16, 250:13, 251:12, 263:6 called [25] - 6:7, 17:16, 50:5, 50:11, 50:17, 50:18, 115:20, 136:11, 137:6, 145:22, 174:25, 175:4, 193:19, 197:6, 239:8, 239:9, 240:13, 248:19, 250:8, 250:10, 250:11, 250:12, 258:7, 269:22, 269:23 calling [1] - 178:24 came [18] - 16:23, 110:8, 133:6, 137:17, 145:10, 153:19, 154:20, 175:11, 179:13, 180:21, 186:3, 188:12, 190:15, 190:25, 212:21, 213:9, 233:25, 295:25 camera [1] - 268:8			

<p>charge [9] - 185:20, 196:22, 231:5, 244:2, 282:10, 284:25, 285:2, 285:3, 285:8</p> <p>charged [2] - 228:7, 230:13</p> <p>charges [5] - 178:15, 185:19, 198:20, 198:24, 244:2</p> <p>chasing [2] - 178:13, 203:5</p> <p>check [7] - 142:19, 178:25, 234:12, 234:15, 234:21, 239:13, 259:13</p> <p>checked [10] - 240:8, 245:16, 247:5, 253:14, 253:17, 253:19, 253:23, 281:2, 282:8, 282:19</p> <p>checking [2] - 245:18, 281:7</p> <p>checks [1] - 61:14</p> <p>Chen [68] - 47:21, 49:3, 52:13, 53:20, 54:16, 55:13, 55:22, 56:2, 56:24, 61:6, 62:16, 79:12, 80:16, 80:23, 81:6, 81:11, 91:2, 92:4, 92:23, 93:6, 95:9, 95:13, 96:20, 96:25, 97:18, 98:20, 100:3, 100:15, 100:21, 102:5, 102:25, 103:23, 105:20, 113:2, 113:19, 115:9, 117:9, 127:24, 128:3, 133:17, 133:21, 154:19, 154:24, 172:22, 176:8, 176:11, 179:10, 179:21, 180:16, 180:25, 185:24, 196:10, 205:16, 225:9, 236:23, 286:22, 288:12, 288:13, 289:23, 291:10, 293:9, 293:14, 297:4, 303:21, 307:5, 308:17, 313:24, 316:13</p> <p>CHEN [2] - 1:9, 3:11</p> <p>Chen's [2] - 286:24, 292:11</p> <p>Chin [1] - 102:2</p> <p>choice [1] - 182:15</p> <p>Church [1] - 3:14</p> <p>church [1] - 102:19</p> <p>circumstances [3] - 14:14, 16:10, 255:2</p> <p>City [4] - 5:16, 5:25, 6:2, 298:3</p> <p>CITY [3] - 1:8, 3:9, 3:10</p> <p>Civil [3] - 2:9, 13:19, 57:18</p> <p>civil [2] - 13:2, 13:22</p> <p>civilian [2] - 144:8, 312:22</p> <p>civilians [3] - 124:3, 124:20, 312:14</p> <p>claim [2] - 21:11, 31:21</p> <p>claimed [1] - 15:21</p> <p>claiming [7] - 15:17, 20:23, 21:5, 58:22, 58:23, 59:2, 59:23</p>	<p>clarification [1] - 154:7</p> <p>clarified [1] - 178:10</p> <p>clarify [12] - 21:19, 44:19, 152:14, 154:7, 173:23, 223:4, 225:18, 236:25, 238:15, 261:15, 310:8, 312:16</p> <p>class [1] - 176:20</p> <p>clear [5] - 19:12, 75:12, 85:3, 169:16, 214:13</p> <p>clearheaded [2] - 169:7, 169:15</p> <p>clerk [1] - 182:24</p> <p>client [1] - 25:18</p> <p>close [3] - 65:11, 109:11, 157:19</p> <p>closest [1] - 303:12</p> <p>clothes [1] - 287:12</p> <p>CO [3] - 266:3, 272:18, 272:19</p> <p>code [2] - 212:2, 261:20</p> <p>coding [1] - 215:3</p> <p>collar [1] - 317:2</p> <p>College [1] - 34:15</p> <p>color [1] - 74:5</p> <p>combination [1] - 86:10</p> <p>come [24] - 76:7, 79:5, 90:9, 97:5, 112:6, 115:21, 118:20, 132:11, 171:23, 175:6, 178:5, 182:16, 184:3, 191:11, 192:2, 210:25, 215:7, 223:9, 287:11, 287:12, 301:9, 301:18, 311:14</p> <p>comes [3] - 65:16, 195:22, 318:18</p> <p>coming [13] - 98:8, 103:3, 139:13, 148:12, 158:20, 158:24, 175:14, 176:5, 182:23, 194:21, 196:2, 276:14, 287:10</p> <p>command [3] - 11:5, 116:12, 243:25</p> <p>commencing [1] - 71:19</p> <p>comment [1] - 8:22</p> <p>commit [2] - 90:19, 201:20</p> <p>commits [1] - 89:16</p> <p>committed [4] - 64:11, 72:13, 99:12, 112:22</p> <p>committing [1] - 67:6</p> <p>communicate [1] - 158:3</p> <p>communicated [1] - 49:2</p> <p>communication [1] - 105:20</p> <p>Community [1] - 34:14</p> <p>community [3] - 73:12, 73:17, 200:14</p> <p>compared [1] - 198:8</p> <p>compartments [1] - 174:10</p> <p>complain [1] - 275:6</p>	<p>complaint [1] - 193:9</p> <p>complete [7] - 7:7, 136:2, 214:6, 214:17, 233:24, 249:24, 280:9</p> <p>completed [3] - 208:4, 214:14, 280:11</p> <p>completely [2] - 168:10, 169:5</p> <p>compliant [1] - 89:12</p> <p>computer [2] - 223:8, 224:2</p> <p>concerned [1] - 110:20</p> <p>concluded [1] - 319:4</p> <p>concludes [1] - 318:21</p> <p>condition [6] - 12:11, 37:20, 71:24, 84:20, 230:19, 247:19</p> <p>conditions [5] - 19:11, 38:3, 38:6, 84:16, 85:2</p> <p>conduct [9] - 101:14, 112:13, 112:23, 230:13, 230:17, 231:5, 279:11, 279:18, 311:10</p> <p>conducted [2] - 238:20, 238:25</p> <p>confer [2] - 25:17, 225:9</p> <p>confidential [2] - 62:9, 62:13</p> <p>connect [1] - 310:16</p> <p>connection [21] - 44:5, 44:16, 44:23, 45:2, 45:13, 56:20, 77:5, 82:16, 107:4, 115:25, 131:21, 152:10, 178:18, 186:20, 188:7, 192:18, 198:20, 209:22, 210:5, 211:7, 242:9</p> <p>consciousness [3] - 153:25, 168:7, 309:24</p> <p>consider [2] - 61:8, 75:2</p> <p>considered [3] - 228:10, 229:9, 230:9</p> <p>considering [1] - 71:20</p> <p>consisted [1] - 231:4</p> <p>constituted [1] - 230:16</p> <p>construction [1] - 84:22</p> <p>contact [17] - 11:9, 11:11, 11:14, 11:18, 12:8, 12:15, 138:10, 139:24, 140:2, 140:5, 140:10, 152:7, 158:21, 158:24, 203:15, 271:23, 301:19</p> <p>contacts [2] - 11:25, 301:20</p> <p>contemporan [1] - 225:19</p> <p>contemporaneously [1] - 225:20</p> <p>continue [3] - 74:23, 201:5, 203:2</p> <p>continuing [1] - 71:19</p> <p>contraband [1] - 164:17</p> <p>control [4] - 110:7, 110:11, 110:14, 111:24</p>	<p>conversation [12] - 22:7, 113:2, 115:9, 136:10, 136:15, 155:14, 161:18, 166:9, 237:12, 307:3, 309:5, 312:22</p> <p>conversations [2] - 21:16, 137:10</p> <p>coordinated [1] - 293:16</p> <p>cop [1] - 188:21</p> <p>cops [2] - 143:20, 202:7</p> <p>copy [19] - 4:14, 4:17, 53:12, 53:14, 53:16, 53:18, 67:20, 68:7, 133:4, 187:2, 222:25, 225:14, 225:15, 232:18, 232:21, 241:9, 249:17, 273:21, 296:10</p> <p>corner [9] - 83:15, 83:17, 87:20, 88:4, 155:2, 155:7, 205:16, 311:7, 311:8</p> <p>Corp [1] - 286:16</p> <p>CORPORATION [1] - 3:9</p> <p>Corporation [3] - 5:24, 22:16, 273:20</p> <p>correct [35] - 10:20, 18:4, 39:5, 41:21, 43:7, 52:21, 52:24, 60:24, 77:24, 91:19, 95:5, 96:13, 103:4, 103:5, 108:13, 108:20, 110:23, 115:4, 123:14, 134:12, 143:8, 143:11, 151:4, 153:22, 161:10, 164:6, 170:9, 175:2, 198:13, 222:22, 278:19, 282:4, 315:3, 315:4, 320:9</p> <p>corrected [1] - 198:5</p> <p>correction [3] - 26:2, 143:14, 147:19</p> <p>corrections [3] - 8:19, 194:2, 194:6</p> <p>correctly [1] - 183:4</p> <p>could [17] - 12:25, 66:22, 97:11, 109:8, 109:23, 110:16, 139:17, 139:23, 141:15, 141:16, 143:21, 167:24, 178:5, 184:3, 217:22, 256:11, 310:15</p> <p>couldn't [2] - 196:23, 230:19</p> <p>Counsel [8] - 5:18, 5:24, 21:17, 22:16, 25:25, 147:17, 273:21, 321:23</p> <p>counsel [5] - 4:6, 4:17, 22:14, 58:17, 286:16</p> <p>COUNSEL [1] - 3:9</p> <p>Counsel's [1] - 314:12</p> <p>COUNTY [1] - 323:5</p> <p>couple [6] - 154:18, 186:2, 187:3, 187:20, 197:17, 300:11</p> <p>course [2] - 172:3</p>
--	---	---	--

<p>courses [1] - 65:16</p> <p>COURT [1] - 1:2</p> <p>court [13] - 6:4, 7:4, 7:12, 13:2, 13:22, 52:9, 182:10, 184:3, 222:15, 233:19, 242:6, 287:5</p> <p>Court [20] - 2:8, 4:13, 5:14, 13:19, 49:14, 49:17, 49:19, 51:22, 52:14, 55:16, 56:12, 56:18, 56:20, 57:18, 57:24, 58:4, 61:15, 192:17, 288:2, 289:2</p> <p>courtroom [7] - 10:9, 51:24, 51:25, 52:4, 292:18, 296:17</p> <p>cover [1] - 221:5</p> <p>crashed [1] - 215:20</p> <p>created [3] - 203:8, 230:25, 231:8</p> <p>crime [6] - 16:12, 77:17, 77:20, 78:2, 78:5, 189:25</p> <p>Criminal [17] - 49:14, 49:16, 49:18, 51:22, 52:14, 55:16, 56:12, 56:18, 56:20, 56:25, 57:23, 58:4, 61:15, 192:17, 287:5, 288:2, 288:25</p> <p>criminal [10] - 13:2, 34:17, 51:16, 54:24, 55:10, 185:21, 191:3, 193:9, 222:15, 233:18</p> <p>cross [2] - 121:25, 172:6</p> <p>crossed [4] - 148:11, 227:17, 227:18, 253:18</p> <p>crowd [2] - 124:7, 187:13</p> <p>cuff [1] - 235:14</p> <p>cuffed [1] - 126:10</p> <p>curb [9] - 113:11, 118:15, 118:17, 126:18, 127:2, 127:9, 128:8, 306:11, 306:13</p> <p>current [4] - 11:3, 11:5, 11:7, 41:19</p> <p>cyclist [3] - 95:8, 95:12, 191:22</p>	<p>damages [1] - 214:15</p> <p>danger [4] - 73:12, 73:17, 200:14, 203:8</p> <p>date [22] - 35:3, 68:2, 204:17, 207:4, 221:25, 233:5, 241:8, 243:3, 244:23, 248:13, 256:9, 260:2, 263:23, 273:11, 277:8, 278:15, 283:11, 284:11, 284:21, 285:13, 285:16, 285:24</p> <p>DATE [2] - 1:15, 2:2</p> <p>dated [1] - 273:7</p> <p>dates [1] - 28:18</p> <p>day [66] - 12:2, 12:6, 26:6, 26:7, 26:12, 26:15, 38:7, 38:9, 38:14, 39:7, 39:14, 47:23, 48:3, 48:7, 50:14, 50:19, 52:12, 56:9, 56:12, 56:15, 56:16, 56:19, 60:14, 61:18, 71:24, 77:11, 79:14, 79:21, 80:19, 81:23, 82:2, 82:15, 84:17, 85:2, 85:5, 85:16, 85:21, 85:25, 86:4, 86:13, 131:17, 131:22, 132:3, 140:22, 141:14, 141:15, 141:17, 141:19, 152:18, 195:2, 195:5, 196:9, 196:14, 196:17, 196:20, 197:5, 202:6, 207:12, 216:18, 222:11, 233:14, 295:18, 298:16, 320:19, 323:20</p> <p>daylight [1] - 19:10</p> <p>days [3] - 4:16, 78:10, 197:13</p> <p>daytime [2] - 19:12, 194:11</p> <p>deal [1] - 66:11</p> <p>Debonay [1] - 251:24</p> <p>December [1] - 284:19</p> <p>decide [1] - 111:18</p> <p>decided [3] - 35:25, 160:2, 202:7</p> <p>decision [1] - 188:22</p> <p>deep [1] - 293:22</p> <p>Def [36] - 205:6, 223:18, 239:4, 248:18, 248:19, 249:4, 249:16, 255:17, 256:5, 256:20, 257:4, 257:19, 258:12, 259:22, 260:10, 261:4, 262:2, 263:19, 264:19, 265:9, 265:19, 268:15, 270:20, 271:7, 278:21, 278:25, 280:3, 280:6, 280:22, 282:8, 282:14, 286:12, 289:16</p> <p>defendant [4] - 15:11, 226:18, 226:22, 284:12</p> <p>Defendant [15] - 2:6, 15:10, 206:5, 226:10, 226:11,</p>	<p>226:14, 226:15, 226:20, 227:25, 237:25, 238:6, 238:9, 238:10, 252:11, 284:10</p> <p>Defendant's [3] - 281:3, 281:4, 281:5</p> <p>Defendants [3] - 3:10, 5:17, 318:16</p> <p>DEFENDANTS [1] - 1:13</p> <p>define [3] - 74:21, 81:3, 236:6</p> <p>degree [2] - 34:12, 34:19</p> <p>degrees [1] - 34:23</p> <p>delete [1] - 53:11</p> <p>demotion [1] - 39:24</p> <p>density [1] - 71:25</p> <p>department [8] - 55:12, 67:9, 67:11, 72:2, 73:3, 73:8, 200:10, 206:5</p> <p>Department [4] - 5:25, 6:3, 34:25, 54:20</p> <p>DEPARTMENT [1] - 3:9</p> <p>depends [2] - 65:21, 89:23</p> <p>deposed [1] - 298:10</p> <p>deposit [1] - 279:13</p> <p>deposition [32] - 1:19, 4:8, 4:9, 4:14, 5:8, 5:10, 6:25, 8:15, 13:2, 14:6, 15:5, 21:14, 21:21, 22:9, 23:2, 57:22, 147:7, 187:3, 193:18, 257:15, 277:4, 277:6, 279:10, 279:13, 279:18, 279:19, 298:19, 298:22, 318:6, 318:8, 318:22, 321:20</p> <p>DEPOSITION [1] - 2:5</p> <p>depositions [1] - 279:11</p> <p>describe [36] - 16:9, 19:10, 19:20, 29:17, 40:22, 82:12, 82:14, 83:18, 84:16, 87:14, 88:6, 88:24, 89:12, 89:24, 92:9, 95:20, 96:2, 97:22, 103:13, 103:22, 106:16, 109:25, 111:5, 113:5, 123:22, 124:6, 124:9, 130:12, 135:9, 150:11, 166:22, 228:9, 240:10, 260:8, 302:17, 308:21</p> <p>described [1] - 145:19</p> <p>describing [3] - 153:2, 257:15, 257:18</p> <p>DESCRIPTION [1] - 321:7</p> <p>description [2] - 215:14, 216:3</p> <p>desk [16] - 128:20, 134:8, 134:16, 134:20, 137:21, 145:5, 162:24, 165:14, 165:15, 165:23, 171:10, 232:19, 246:6, 246:20, 247:9, 247:16</p> <p>detail [3] - 138:23, 216:18,</p>	<p>216:21</p> <p>details [2] - 217:18, 226:6</p> <p>determination [1] - 80:20</p> <p>determine [5] - 71:18, 80:18, 200:20, 200:23, 271:22</p> <p>diagram [3] - 213:12, 214:2, 218:13</p> <p>dialogue [1] - 115:10</p> <p>Diamond [2] - 5:6, 6:5</p> <p>did [76] - 17:24, 19:9, 19:21, 29:22, 43:8, 45:6, 47:4, 47:7, 52:17, 56:2, 56:8, 60:6, 60:12, 92:10, 99:5, 107:12, 110:7, 111:23, 111:25, 114:3, 114:21, 116:3, 116:25, 117:12, 125:8, 129:8, 133:21, 138:5, 139:9, 140:2, 140:5, 145:23, 151:23, 157:14, 157:18, 172:2, 179:21, 180:3, 182:2, 188:7, 190:23, 192:7, 192:9, 194:8, 201:20, 201:23, 202:2, 210:25, 213:8, 217:9, 224:10, 224:19, 225:15, 225:16, 226:18, 226:20, 226:22, 227:25, 228:10, 230:9, 235:18, 238:9, 238:11, 245:22, 250:4, 250:18, 252:11, 259:16, 271:2, 280:20, 281:12, 288:22, 293:9, 294:9, 294:12, 296:25</p> <p>did he [30] - 98:3, 100:22, 108:6, 110:20, 113:12, 114:6, 115:9, 117:9, 120:24, 121:2, 125:25, 126:4, 126:17, 129:11, 129:22, 129:25, 144:22, 168:10, 168:24, 168:25, 169:9, 169:14, 170:13, 170:21, 193:8, 196:10, 199:2, 229:17, 261:10, 272:23</p> <p>did it [4] - 121:25, 122:7, 172:6, 267:23</p> <p>did she [3] - 31:19, 153:23, 153:25</p> <p>did they [1] - 91:23</p> <p>did you [243] - 9:5, 9:8, 9:11, 9:14, 9:17, 17:9, 19:13, 19:22, 20:2, 20:10, 21:20, 21:23, 22:7, 22:19, 22:22, 23:8, 23:13, 23:18, 23:21, 24:4, 24:24, 25:13, 26:15, 29:10, 30:25, 31:17, 31:21, 34:13, 34:16, 34:18, 35:9, 35:16, 36:21, 37:4, 37:7, 38:5, 38:20, 39:13, 39:22, 39:24, 52:18, 53:13, 53:19, 53:24, 54:14, 57:6, 58:18,</p>
<p>D</p>			
<p>D [5] - 4:2, 71:24, 74:6, 320:2, 322:2</p> <p>DA's [1] - 283:21</p> <p>damage [14] - 119:15, 119:16, 119:17, 121:4, 121:15, 140:15, 140:19, 212:2, 212:11, 215:3, 215:22, 263:3, 267:10, 267:23</p> <p>damaged [16] - 31:10, 119:10, 119:14, 121:21, 151:21, 152:20, 152:21, 152:22, 261:20, 262:3, 262:11, 266:16, 266:20, 267:2, 267:13</p>			

61:16, 66:16, 67:14, 74:25, 77:25, 79:8, 81:21, 81:22, 81:25, 85:12, 88:21, 90:12, 91:20, 99:14, 101:13, 104:2, 104:6, 104:8, 106:6, 106:11, 107:9, 107:13, 107:17, 108:14, 109:2, 110:10, 111:2, 111:8, 112:2, 112:25, 113:19, 114:9, 116:22, 117:4, 118:16, 119:9, 121:14, 121:17, 122:19, 122:23, 124:18, 126:3, 126:6, 127:6, 127:12, 127:16, 127:19, 127:23, 128:3, 128:7, 129:2, 130:8, 130:19, 131:10, 131:17, 132:20, 134:2, 135:18, 136:9, 136:18, 136:25, 137:3, 137:9, 137:13, 137:21, 138:16, 139:2, 139:3, 139:8, 139:23, 140:15, 140:19, 142:7, 142:18, 145:24, 146:7, 146:10, 151:5, 152:4, 152:7, 152:13, 152:19, 154:4, 155:9, 155:14, 156:8, 157:22, 158:2, 160:5, 160:15, 161:23, 162:25, 164:10, 164:16, 165:17, 166:8, 166:19, 167:6, 168:6, 170:4, 171:7, 172:21, 173:5, 173:9, 173:16, 175:5, 175:14, 175:23, 178:17, 178:23, 179:6, 182:6, 183:11, 183:15, 184:16, 185:3, 185:18, 186:11, 186:23, 187:24, 188:10, 188:14, 188:17, 188:23, 189:14, 191:10, 191:25, 192:5, 192:16, 193:22, 194:2, 194:6, 197:22, 199:5, 203:11, 203:14, 206:11, 206:12, 206:17, 209:7, 210:21, 212:22, 212:25, 213:5, 213:14, 224:6, 224:12, 224:13, 224:14, 225:8, 225:11, 225:18, 229:10, 229:21, 233:24, 234:15, 234:21, 236:20, 236:22, 239:15, 246:18, 246:22, 247:13, 249:24, 250:13, 255:10, 255:13, 257:4, 257:6, 258:15, 259:6, 259:12, 260:22, 267:19, 271:2, 272:17, 272:20, 274:10, 274:15, 280:19, 293:5, 293:18, 295:24, 296:11, 302:21, 305:8, 306:2, 310:2, 312:13, 313:20, 313:23, 314:2 didn't [63] - 17:19, 17:20,	20:15, 36:6, 44:25, 50:6, 51:2, 51:12, 51:14, 54:23, 55:17, 60:7, 60:11, 114:13, 115:5, 117:23, 118:5, 119:13, 122:17, 123:11, 123:13, 131:13, 136:3, 143:15, 143:25, 155:25, 156:5, 158:13, 172:12, 172:13, 172:14, 173:2, 183:4, 189:4, 189:5, 194:24, 195:11, 199:9, 210:20, 214:6, 214:17, 216:9, 216:13, 218:5, 218:13, 220:6, 223:12, 232:10, 239:24, 240:17, 253:24, 253:25, 254:3, 254:9, 254:11, 254:16, 257:25, 291:3, 291:6, 294:3, 296:21, 305:12, 311:16 difference [1] - 183:19 different [18] - 34:24, 38:24, 39:10, 39:20, 40:2, 40:3, 41:10, 65:15, 65:16, 70:13, 141:15, 141:16, 175:13, 218:25, 219:2, 275:6, 283:23, 317:15 differently [1] - 317:6 difficulty [1] - 11:21 dinner [2] - 42:25, 43:6 Dione [2] - 2:12, 6:4 DIONE [2] - 323:7, 323:25 direct [3] - 61:25, 62:5, 62:6 direction [11] - 74:5, 83:14, 84:5, 97:5, 97:25, 103:10, 196:3, 196:12, 231:3, 302:17 discipline [4] - 43:20, 43:23, 44:5, 44:8 disciplined [4] - 37:2, 42:16, 42:24, 44:11 discon [2] - 178:16, 206:3 discuss [1] - 21:17 discussion [8] - 25:22, 181:21, 196:9, 237:18, 264:8, 281:20, 297:13, 318:2 dismissed [1] - 199:2 disorderly [9] - 112:13, 112:22, 230:13, 230:17, 231:5, 279:11, 279:18, 310:16, 311:10 dispatcher [1] - 73:24 distance [4] - 64:25, 98:8, 109:21, 109:22 DISTRICT [2] - 1:2, 1:2 District [2] - 5:13, 5:14 division [1] - 188:22 dizziness [1] - 168:22 dizzy [2] - 169:2, 309:24 do [75] - 8:2, 10:2, 17:9, 17:11, 17:13, 21:13, 21:17, 32:4, 40:22, 49:25, 50:12,	55:11, 58:15, 60:7, 60:11, 63:4, 63:8, 63:9, 63:10, 64:6, 66:7, 68:15, 70:18, 88:2, 89:3, 90:16, 92:4, 93:15, 97:2, 112:4, 126:15, 129:11, 129:15, 139:6, 155:15, 159:4, 159:9, 160:5, 162:21, 165:20, 174:2, 174:15, 174:16, 175:14, 182:8, 183:4, 183:5, 185:7, 196:16, 197:18, 198:17, 201:17, 202:6, 202:18, 216:16, 218:2, 218:10, 219:17, 225:19, 225:21, 228:13, 239:16, 240:17, 251:13, 251:14, 259:6, 269:5, 276:9, 280:19, 288:22, 293:20, 293:25, 295:23, 306:2, 323:8 do you [191] - 10:9, 10:18, 11:9, 11:16, 11:25, 13:7, 15:20, 16:6, 18:24, 20:17, 21:8, 21:9, 26:11, 29:13, 30:3, 30:10, 31:6, 32:15, 39:18, 46:18, 47:11, 47:14, 49:9, 50:11, 51:5, 55:21, 56:23, 57:3, 58:21, 60:11, 60:15, 60:19, 61:5, 61:8, 61:21, 61:24, 62:4, 62:15, 63:12, 64:5, 65:10, 65:12, 67:11, 70:9, 71:4, 72:20, 82:10, 86:18, 89:17, 105:24, 107:21, 109:15, 110:13, 111:18, 113:16, 113:24, 119:3, 121:10, 123:3, 126:24, 131:20, 132:7, 132:23, 138:9, 141:3, 142:3, 146:18, 146:21, 151:15, 151:17, 152:24, 153:25, 159:6, 159:15, 160:11, 163:19, 168:20, 169:21, 170:16, 175:20, 176:25, 178:2, 180:19, 188:3, 190:9, 192:10, 192:13, 197:10, 197:12, 198:17, 198:19, 198:25, 199:20, 200:2, 200:6, 200:15, 201:4, 202:18, 204:6, 206:20, 208:5, 211:5, 211:20, 216:2, 219:2, 220:23, 223:10, 224:10, 224:18, 225:21, 225:22, 228:2, 239:9, 241:9, 241:22, 245:2, 245:9, 246:14, 247:4, 247:24, 248:3, 249:10, 249:22, 250:3, 250:21, 251:2, 251:11, 252:15, 252:18, 253:13, 253:22, 254:15, 255:2, 255:3, 255:5, 255:7, 258:24, 260:25, 261:25, 262:7, 265:3, 265:6, 265:13, 265:16, 265:20, 265:23,	267:12, 267:25, 268:8, 268:22, 270:3, 270:8, 271:14, 271:18, 271:21, 272:2, 272:6, 272:8, 272:11, 272:14, 275:25, 276:3, 276:6, 279:20, 284:3, 284:17, 285:15, 286:20, 288:20, 290:8, 290:19, 293:13, 294:19, 295:13, 295:20, 296:24, 297:3, 302:20, 303:20, 304:5, 304:22, 307:3, 312:5, 314:8, 315:6, 316:6, 316:9, 316:13, 317:9 docket [1] - 5:17 doctor [2] - 259:9, 259:12 document [32] - 68:12, 199:20, 204:22, 207:10, 207:14, 208:4, 211:25, 220:22, 222:6, 222:9, 222:13, 226:5, 231:22, 231:24, 233:15, 233:21, 242:3, 242:9, 242:13, 243:15, 243:18, 245:6, 249:3, 249:11, 251:23, 273:17, 277:15, 277:22, 278:4, 279:5, 279:8, 284:23 documentations [1] - 136:20 documents [6] - 22:20, 23:18, 23:21, 186:24, 248:19, 280:9 DOCUMENTS [2] - 322:8, 322:9 DOE [2] - 1:10, 3:12 Doe [2] - 1:11, 3:13 does [5] - 14:22, 96:20, 120:12, 220:8, 242:16 does he [5] - 88:24, 89:2, 129:17, 217:16, 306:18 does it [2] - 65:11, 89:20 does that [20] - 41:8, 50:12, 72:14, 78:8, 87:7, 91:17, 176:14, 223:23, 232:9, 247:2, 256:23, 258:9, 264:19, 274:21, 281:8, 292:16, 297:24, 299:4, 299:23, 316:2 doesn't [5] - 65:11, 72:22, 216:24, 222:25, 301:18 doing [24] - 16:12, 78:23, 79:25, 96:2, 96:3, 98:25, 180:15, 186:17, 188:25, 191:2, 207:15, 229:11, 230:16, 235:2, 236:10, 236:11, 268:2, 271:15, 271:19, 272:12, 294:5, 303:4, 308:24, 315:11 dollars [1] - 184:8 don't [264] - 7:16, 7:20,
--	--	---	---

<p>8:11, 8:13, 11:15, 12:17, 13:9, 15:15, 15:25, 18:2, 20:12, 20:21, 24:22, 27:8, 27:20, 27:22, 28:10, 28:17, 28:22, 30:6, 30:9, 30:13, 30:14, 30:15, 30:23, 31:16, 31:24, 32:23, 35:18, 40:12, 40:16, 41:5, 41:15, 42:6, 42:22, 43:22, 45:15, 45:17, 47:10, 47:19, 49:21, 49:22, 49:24, 50:24, 51:2, 52:10, 53:3, 53:11, 55:3, 55:24, 57:2, 58:25, 59:3, 59:8, 59:9, 59:10, 59:17, 59:19, 63:17, 64:3, 64:17, 65:4, 65:6, 65:8, 85:7, 85:22, 86:5, 86:19, 88:12, 95:16, 95:22, 100:18, 100:23, 101:9, 101:16, 104:4, 104:11, 105:22, 107:16, 108:17, 108:21, 108:25, 111:21, 113:9, 113:14, 113:22, 116:2, 116:24, 117:3, 117:7, 117:15, 117:24, 118:7, 118:19, 119:2, 119:8, 120:20, 121:3, 122:22, 123:2, 124:17, 124:21, 125:15, 125:23, 127:5, 127:10, 127:15, 127:22, 128:2, 128:5, 129:7, 129:21, 130:3, 130:11, 132:17, 132:21, 133:5, 133:20, 133:24, 134:24, 135:8, 135:13, 136:5, 136:7, 136:12, 136:14, 137:7, 137:12, 138:8, 138:12, 141:8, 141:20, 141:24, 143:18, 144:2, 145:15, 149:18, 150:25, 151:13, 151:18, 153:15, 155:11, 155:16, 157:17, 157:25, 158:12, 160:23, 161:6, 161:25, 162:11, 162:19, 163:7, 163:8, 166:2, 166:12, 166:25, 167:13, 167:19, 168:15, 169:12, 170:15, 170:19, 170:25, 171:5, 171:13, 171:19, 172:20, 173:7, 175:10, 175:16, 176:13, 178:3, 178:20, 179:5, 179:9, 180:9, 181:11, 181:12, 184:18, 184:20, 186:14, 188:5, 192:7, 192:9, 197:16, 202:21, 203:7, 203:13, 203:16, 203:17, 203:24, 208:13, 209:9, 209:15, 211:3, 211:9, 211:13, 211:18, 216:11, 216:15, 216:16, 216:18, 217:17, 218:4, 221:5, 221:6, 221:8, 221:12, 226:2,</p>	<p>227:10, 228:23, 229:12, 231:20, 241:24, 246:24, 248:2, 248:5, 250:8, 250:10, 250:11, 252:22, 253:16, 254:4, 254:11, 257:13, 258:3, 259:15, 260:16, 261:15, 262:23, 262:25, 263:11, 265:25, 267:15, 267:24, 269:14, 271:5, 275:11, 276:13, 288:8, 289:4, 291:3, 292:10, 293:12, 296:14, 301:20, 307:22, 309:9, 311:23, 312:10, 313:3, 315:24, 316:12, 316:16, 317:18, 318:4</p> <p>done ^[14] - 14:2, 54:16, 68:11, 209:20, 247:9, 272:9, 295:14, 295:16, 296:15, 296:16, 296:20, 317:6, 317:15, 318:4</p> <p>dont ^[1] - 63:18</p> <p>door ^[14] - 121:7, 151:8, 212:8, 212:11, 261:8, 262:18, 263:2, 263:8, 268:6, 268:10, 268:18, 268:24, 269:16, 270:10</p> <p>doors ^[1] - 269:4</p> <p>down ^[46] - 7:5, 7:13, 7:14, 29:19, 40:24, 63:20, 73:19, 90:9, 97:5, 97:15, 97:16, 98:3, 99:18, 107:13, 111:20, 112:11, 112:16, 149:3, 150:8, 150:9, 153:23, 157:8, 157:9, 157:12, 157:13, 178:13, 182:9, 182:24, 184:12, 190:7, 190:8, 194:21, 194:22, 197:6, 203:5, 209:8, 211:24, 215:15, 218:4, 219:8, 226:4, 231:14, 240:6, 245:5, 303:17</p> <p>downstairs ^[1] - 150:3</p> <p>draw ^[1] - 213:14</p> <p>drawings ^[1] - 213:23</p> <p>drinking ^[1] - 32:6</p> <p>drive ^[5] - 46:23, 81:14, 81:16, 107:10, 152:17</p> <p>Drive ^[2] - 149:2, 149:3</p> <p>driver ^[8] - 47:12, 47:19, 80:11, 80:13, 80:19, 80:24, 81:11, 81:12</p> <p>driver's ^[13] - 96:11, 96:15, 121:7, 215:21, 224:25, 261:8, 262:17, 262:18, 263:2, 263:8, 268:5, 268:10, 270:9</p> <p>drivers ^[2] - 86:9, 322:10</p> <p>driving ^[18] - 12:5, 16:16, 19:21, 29:19, 41:3, 80:21, 91:18, 141:14, 141:18,</p>	<p>144:15, 149:3, 153:5, 172:20, 180:7, 227:2, 227:13, 266:14, 311:4</p> <p>drop ^[2] - 125:2, 180:4</p> <p>dropped ^[1] - 179:23</p> <p>drove ^[2] - 180:5, 180:12</p> <p>drugs ^[2] - 9:15, 32:10</p> <p>drunk ^[1] - 41:3</p> <p>duly ^[3] - 6:8, 320:5, 323:11</p> <p>duplicate ^[1] - 279:2</p> <p>during ^[14] - 69:10, 113:13, 113:20, 123:21, 145:3, 186:17, 187:16, 206:5, 222:14, 226:21, 233:18, 257:15, 274:12, 293:23</p> <p>duty ^[12] - 28:25, 29:2, 29:3, 33:13, 33:17, 33:21, 33:25, 34:4, 43:9, 149:21, 149:22, 205:11</p>	<p>Elmhurst ^[2] - 215:24, 216:8</p> <p>else ^[43] - 15:10, 20:19, 22:17, 23:15, 24:17, 33:13, 36:23, 37:23, 39:25, 47:10, 59:18, 61:2, 78:9, 79:19, 80:14, 81:13, 84:13, 86:10, 87:18, 116:23, 119:5, 123:24, 135:7, 135:16, 136:13, 137:8, 168:3, 185:4, 188:6, 198:12, 199:3, 208:6, 209:17, 225:18, 230:9, 230:11, 245:19, 250:9, 252:21, 267:8, 276:13, 279:2, 302:22</p> <p>EMS ^[2] - 138:14, 215:25</p> <p>EMT ^[2] - 166:10, 169:20</p> <p>EMTs ^[2] - 169:14, 169:18</p> <p>encounter ^[1] - 64:19</p> <p>encountering ^[1] - 161:23</p> <p>end ^[1] - 206:8</p> <p>energy ^[1] - 235:14</p> <p>enforcement ^[2] - 35:10, 269:6</p> <p>engage ^[2] - 69:9, 310:14</p> <p>enough ^[3] - 156:2, 201:24, 203:8</p> <p>entered ^[3] - 223:14, 223:21, 226:3</p> <p>entire ^[1] - 36:15</p> <p>entitled ^[1] - 236:18</p> <p>entry ^[5] - 24:12, 204:13, 225:12, 225:19, 225:23</p> <p>eric ^[1] - 42:9</p> <p>escort ^[1] - 252:24</p> <p>ESQ ^[3] - 3:6, 3:8, 3:15</p> <p>estimate ^[1] - 105:24</p> <p>et ^[1] - 5:17</p> <p>etcetera ^[1] - 80:5</p> <p>Eunice ^[1] - 48:20</p> <p>even ^[13] - 7:8, 17:11, 17:23, 27:17, 65:11, 72:6, 74:24, 108:3, 137:18, 245:20, 311:16, 314:5, 317:2</p> <p>event ^[1] - 27:22</p> <p>eventually ^[1] - 301:2</p> <p>ever ^[133] - 12:21, 13:18, 19:13, 33:24, 34:3, 37:2, 37:4, 42:10, 42:13, 42:16, 44:11, 44:15, 45:19, 45:21, 47:20, 48:25, 53:19, 53:24, 54:14, 55:22, 56:2, 56:24, 57:6, 57:17, 58:6, 60:25, 61:11, 61:16, 68:14, 68:24, 74:12, 74:14, 75:8, 76:10, 77:3, 77:16, 80:22, 95:22, 101:13, 106:11, 107:14, 108:14, 114:9, 119:9, 121:25, 122:7, 122:19, 122:23, 127:12, 127:16,</p>
---	---	---	--

<p>127:19, 127:23, 128:3, 131:17, 141:10, 141:21, 144:22, 146:7, 146:16, 147:2, 152:4, 152:7, 157:19, 157:22, 158:2, 158:19, 158:23, 161:23, 168:6, 169:9, 171:7, 172:6, 172:21, 173:9, 175:5, 175:23, 176:9, 176:11, 178:17, 178:23, 179:6, 183:11, 188:10, 188:14, 188:17, 188:23, 192:5, 192:17, 196:8, 198:17, 199:5, 202:24, 206:17, 211:20, 212:25, 229:10, 229:21, 233:14, 236:22, 241:17, 246:18, 246:22, 247:13, 254:18, 254:21, 255:10, 255:13, 256:16, 258:15, 259:6, 259:13, 264:15, 267:17, 267:19, 271:2, 272:17, 272:20, 272:23, 273:16, 274:6, 274:11, 274:15, 293:5, 293:9, 297:4, 309:23, 311:19, 312:13, 313:7, 313:15, 316:10, 316:14</p> <p>every [6] - 41:10, 141:14, 141:15, 141:16, 169:20, 195:4</p> <p>everything [9] - 26:18, 108:24, 165:23, 174:12, 183:20, 198:12, 224:21, 224:23, 279:2</p> <p>everywhere [1] - 172:3</p> <p>exact [4] - 13:9, 18:2, 28:17, 88:12</p> <p>exactly [54] - 10:8, 15:25, 20:12, 28:10, 28:23, 34:25, 42:7, 42:22, 43:22, 49:21, 49:23, 49:25, 54:23, 65:4, 66:16, 85:7, 85:22, 86:5, 88:7, 102:10, 110:2, 113:14, 113:23, 117:24, 120:24, 145:15, 149:18, 160:23, 162:2, 166:2, 168:16, 168:24, 177:20, 177:23, 178:2, 178:3, 181:11, 184:21, 186:14, 188:5, 192:22, 195:3, 195:15, 216:18, 226:2, 228:10, 249:6, 253:10, 260:17, 261:16, 261:21, 268:21, 309:9, 313:3</p> <p>examination [3] - 166:24, 323:10, 323:12</p> <p>Examination [1] - 319:3</p> <p>EXAMINATION [2] - 6:11, 322:4</p> <p>examined [2] - 6:10, 166:17</p> <p>examining [1] - 166:20</p>	<p>example [1] - 184:7</p> <p>except [2] - 4:21, 249:3</p> <p>excuse [3] - 25:12, 57:21, 226:17</p> <p>Exhibit [2] - 273:4, 278:9</p> <p>exhibit [1] - 262:24</p> <p>EXHIBIT [2] - 321:6</p> <p>Exhibit 1 [3] - 67:20, 67:25, 199:13</p> <p>Exhibit 10 [3] - 259:19, 259:25, 262:25</p> <p>Exhibit 11 [2] - 263:17, 263:22</p> <p>Exhibit 12 [2] - 273:10, 273:13</p> <p>Exhibit 13 [3] - 277:3, 277:7, 277:11</p> <p>Exhibit 14 [2] - 278:14, 278:24</p> <p>Exhibit 15 [2] - 283:7, 283:10</p> <p>Exhibit 16 [3] - 285:19, 285:23, 286:4</p> <p>Exhibit 2 [2] - 204:11, 204:16</p> <p>Exhibit 3 [2] - 206:23, 207:3</p> <p>Exhibit 4 [2] - 221:18, 221:24</p> <p>Exhibit 5 [4] - 232:23, 233:4, 233:10, 237:22</p> <p>Exhibit 6 [3] - 241:4, 241:7, 241:14</p> <p>Exhibit 7 [2] - 242:22, 243:2</p> <p>Exhibit 8 [5] - 240:22, 248:9, 248:12, 248:17, 255:21</p> <p>Exhibit 9 [4] - 256:2, 256:8, 256:12, 256:16</p> <p>EXHIBITS [1] - 321:4</p> <p>Exhibits [1] - 321:23</p> <p>expand [1] - 72:19</p> <p>expedite [2] - 242:14, 242:16</p> <p>explain [4] - 89:6, 212:4, 213:17, 230:15</p> <p>extent [1] - 50:23</p> <p>eye [1] - 101:14</p> <p>eyeglasses [1] - 12:16</p>	<p>fair [18] - 7:22, 38:8, 69:8, 161:5, 161:14, 209:23, 211:16, 217:23, 220:13, 222:17, 271:12, 302:25, 305:13, 305:18, 305:20, 306:11, 308:3, 315:21</p> <p>fairly [1] - 47:17</p> <p>fake [1] - 287:17</p> <p>fall [17] - 110:7, 110:22, 111:3, 125:17, 143:15, 143:16, 153:23, 160:16, 160:18, 161:3, 161:9, 178:14, 226:19, 238:9, 304:9, 305:12</p> <p>fallen [6] - 122:9, 123:6, 123:16, 125:10, 139:5, 229:22</p> <p>falling [2] - 230:25, 256:25</p> <p>falls [1] - 143:10</p> <p>familiar [5] - 11:23, 62:22, 66:6, 72:3, 299:5</p> <p>family [7] - 79:7, 150:13, 150:14, 152:8, 152:13, 153:10, 182:13</p> <p>far [22] - 11:21, 13:25, 15:9, 24:20, 45:11, 52:3, 58:8, 75:7, 92:18, 92:19, 92:22, 93:2, 93:3, 96:15, 98:17, 98:21, 106:16, 110:19, 154:23, 207:22, 245:19, 301:12</p> <p>farsighted [1] - 11:17</p> <p>fashion [1] - 202:10</p> <p>fast [3] - 32:15, 104:21, 108:24</p> <p>faster [1] - 126:14</p> <p>father's [1] - 225:4</p> <p>fault [1] - 30:4</p> <p>fax [2] - 186:23, 193:9</p> <p>faxed [1] - 280:14</p> <p>feasible [1] - 69:21</p> <p>Federal [1] - 2:8</p> <p>feel [7] - 54:21, 60:2, 68:9, 200:16, 236:20, 281:9, 293:24</p> <p>feet [8] - 88:16, 143:6, 143:23, 144:16, 156:22, 159:14, 218:14, 227:11</p> <p>feets [1] - 96:16</p> <p>fell [21] - 25:3, 26:17, 104:20, 106:2, 106:22, 110:15, 110:17, 111:6, 116:20, 138:4, 138:21, 138:24, 161:15, 162:5, 177:8, 187:12, 203:20, 205:22, 231:6, 231:7, 252:12</p> <p>felony [1] - 72:13</p> <p>felt [3] - 54:12, 236:23, 311:24</p> <p>female [8] - 18:19, 18:22,</p>	<p>42:2, 46:21, 53:4, 86:20, 95:13, 120:22</p> <p>Fett [2] - 5:21, 6:20</p> <p>FETT [49] - 3:6, 6:12, 15:3, 111:13, 147:9, 181:17, 198:18, 204:10, 206:22, 221:17, 232:22, 233:8, 237:7, 237:13, 240:21, 240:25, 241:9, 241:11, 242:21, 243:7, 244:9, 245:24, 248:8, 249:23, 255:20, 255:23, 255:25, 259:18, 263:6, 263:14, 263:16, 264:3, 272:16, 273:3, 273:6, 277:2, 278:8, 278:11, 281:15, 281:23, 283:6, 285:18, 286:2, 297:9, 302:2, 317:21, 318:3, 318:19, 322:5</p> <p>few [11] - 23:5, 23:12, 25:15, 25:16, 42:6, 49:15, 96:16, 106:19, 113:9, 180:23, 181:16</p> <p>fictitious [2] - 1:11, 3:13</p> <p>field [6] - 180:17, 185:9, 185:12, 185:16, 187:2, 279:13</p> <p>fifteen [3] - 123:19, 134:4, 251:9</p> <p>filing [1] - 4:7</p> <p>fill [5] - 58:17, 134:7, 178:17, 251:16, 251:21</p> <p>filled [6] - 135:23, 191:6, 232:17, 246:3, 246:10, 246:13</p> <p>filling [1] - 218:24</p> <p>filming [1] - 311:15</p> <p>find [13] - 57:7, 57:12, 58:10, 120:3, 132:12, 152:4, 184:17, 185:3, 187:19, 188:15, 190:13, 199:5, 244:10</p> <p>fine [3] - 17:3, 169:5, 279:22</p> <p>fingerprint [1] - 137:14</p> <p>fingerprinted [1] - 174:18</p> <p>finish [2] - 9:20, 237:8</p> <p>fire [1] - 87:20</p> <p>firms [1] - 5:20</p> <p>first [72] - 6:8, 7:4, 8:6, 10:16, 18:25, 20:3, 20:4, 23:12, 26:6, 26:16, 27:3, 28:21, 35:7, 36:8, 37:18, 42:8, 46:13, 69:17, 85:15, 106:10, 106:19, 111:23, 115:24, 134:14, 141:25, 145:10, 161:22, 168:5, 174:8, 179:23, 185:9, 196:18, 197:5, 198:8, 203:22, 205:14, 207:20,</p>
F			
<p>F [8] - 4:2, 41:25, 71:22, 72:2, 74:3, 74:8, 323:2</p> <p>facing [5] - 87:21, 91:16, 102:14, 195:15, 308:3</p> <p>fact [3] - 56:4, 216:9, 225:21</p> <p>failed [2] - 226:13, 238:3</p>			

<p>207:24, 216:22, 217:5, 217:8, 217:10, 225:15, 228:21, 228:22, 230:2, 230:3, 234:3, 236:17, 239:7, 249:13, 249:14, 249:19, 249:25, 251:22, 264:19, 274:18, 274:23, 277:21, 283:24, 284:10, 284:23, 285:4, 286:19, 287:3, 299:17, 301:8, 313:6, 316:20, 320:5</p> <p>five [4] - 9:19, 29:16, 150:14, 150:24</p> <p>fixed [2] - 31:22, 32:2</p> <p>flailing [1] - 309:13</p> <p>flair [5] - 226:20, 227:25, 238:11, 309:10, 310:8</p> <p>flaring [1] - 206:3</p> <p>Flaring [1] - 281:3</p> <p>flashing [1] - 268:12</p> <p>fled [4] - 185:25, 205:20, 226:15, 238:6</p> <p>flee [1] - 230:6</p> <p>fleeing [11] - 64:11, 75:16, 112:10, 112:21, 178:12, 187:11, 205:21, 215:19, 230:18, 230:24, 283:2</p> <p>floor [1] - 165:16</p> <p>fly [1] - 160:25</p> <p>focused [1] - 86:14</p> <p>follow [3] - 75:21, 263:10, 263:12</p> <p>follow-up [1] - 263:12</p> <p>followed [3] - 199:21, 200:3, 200:16</p> <p>following [7] - 71:20, 73:25, 88:8, 88:11, 108:16, 275:20, 275:23</p> <p>follows [1] - 6:10</p> <p>foot [10] - 37:22, 37:24, 80:6, 90:2, 90:6, 106:23, 107:2, 109:14, 109:16, 121:11</p> <p>footing [1] - 169:10</p> <p>For [1] - 184:7</p> <p>for [223] - 3:4, 3:10, 4:6, 4:18, 5:22, 6:13, 7:6, 11:13, 12:4, 12:10, 12:15, 13:22, 16:21, 17:13, 18:8, 19:20, 21:14, 21:21, 22:8, 23:2, 29:17, 31:25, 33:2, 36:6, 38:3, 40:22, 40:25, 42:17, 42:24, 43:15, 43:23, 44:12, 45:25, 46:3, 47:4, 50:14, 50:17, 50:24, 54:4, 54:5, 54:9, 59:2, 59:7, 59:14, 64:3, 67:25, 70:8, 70:13, 71:17, 73:6, 75:13, 79:7, 82:12, 82:14, 84:16, 86:8, 86:9, 87:5, 87:14, 87:17, 88:6,</p>	<p>88:10, 88:24, 89:9, 89:24, 92:9, 92:22, 93:13, 95:20, 96:2, 96:6, 96:12, 97:22, 100:7, 103:13, 103:22, 106:16, 109:25, 111:5, 113:5, 114:4, 118:20, 118:22, 122:24, 123:4, 123:22, 124:9, 126:15, 130:12, 130:24, 131:8, 133:4, 134:10, 135:9, 136:12, 136:20, 140:4, 144:19, 145:16, 150:11, 157:24, 160:11, 162:11, 166:6, 166:22, 168:17, 171:8, 171:13, 173:16, 178:15, 179:17, 180:15, 181:16, 182:16, 182:17, 182:19, 183:12, 183:24, 184:11, 187:2, 189:18, 190:17, 192:11, 192:25, 193:14, 194:15, 194:19, 197:2, 197:6, 202:6, 203:8, 203:9, 203:19, 203:25, 204:16, 206:2, 206:3, 207:3, 208:15, 215:9, 217:8, 217:9, 217:18, 218:18, 219:9, 219:17, 220:2, 220:25, 221:5, 221:9, 221:24, 224:20, 226:9, 228:4, 228:9, 228:12, 229:7, 230:3, 230:18, 230:19, 230:20, 231:2, 231:14, 233:4, 236:17, 237:23, 240:10, 240:13, 241:7, 241:24, 243:2, 248:12, 249:3, 253:14, 256:8, 259:25, 260:8, 263:6, 263:22, 263:25, 265:13, 267:15, 269:6, 271:25, 272:11, 273:10, 276:14, 277:7, 278:14, 279:11, 279:12, 280:25, 281:10, 281:16, 282:10, 282:18, 283:10, 285:23, 287:15, 287:21, 287:23, 296:18, 296:19, 299:8, 302:17, 309:18, 310:8, 310:10, 313:9, 317:21, 323:7</p> <p>forbid [1] - 230:6</p> <p>force [14] - 4:15, 232:6, 232:12, 234:10, 234:19, 235:6, 235:11, 235:13, 235:16, 239:9, 239:18, 239:19, 239:20, 239:25</p> <p>forearm [1] - 167:14</p> <p>foregoing [1] - 320:8</p> <p>Forgive [1] - 241:2</p> <p>forgive [3] - 166:7, 268:6, 312:19</p> <p>forgot [1] - 168:16</p>	<p>form [31] - 4:21, 19:16, 21:15, 33:14, 37:15, 58:16, 160:22, 178:19, 221:19, 221:20, 221:23, 223:9, 224:2, 225:25, 235:19, 241:4, 241:6, 248:11, 248:15, 248:16, 248:20, 251:17, 254:13, 254:16, 254:19, 254:23, 255:8, 255:17, 321:11, 321:13, 321:15</p> <p>formed [1] - 282:10</p> <p>forth [1] - 323:11</p> <p>forward [2] - 110:21, 111:7</p> <p>found [7] - 30:4, 58:7, 132:24, 184:13, 278:5, 318:12, 318:14</p> <p>four [8] - 38:4, 43:21, 43:25, 44:3, 45:18, 82:19, 83:5, 84:8</p> <p>frail [1] - 310:3</p> <p>free [3] - 68:10, 275:3, 313:10</p> <p>Friday [1] - 206:8</p> <p>friend [1] - 61:9</p> <p>from [147] - 5:21, 5:24, 6:2, 11:21, 14:11, 22:3, 22:15, 22:24, 24:25, 26:5, 27:5, 27:23, 28:4, 33:21, 34:24, 35:10, 36:7, 37:11, 42:20, 43:22, 44:2, 44:9, 45:18, 52:13, 57:13, 61:3, 61:14, 65:2, 67:15, 67:16, 74:13, 75:16, 75:19, 77:3, 78:5, 79:18, 80:15, 81:22, 82:4, 82:20, 83:4, 83:5, 84:8, 92:19, 92:24, 93:3, 94:4, 96:15, 98:17, 98:19, 99:3, 101:19, 104:16, 104:17, 106:18, 106:23, 107:2, 109:16, 112:10, 112:21, 117:13, 121:18, 121:19, 121:20, 124:24, 127:7, 127:24, 128:8, 128:10, 137:25, 138:22, 142:12, 143:6, 143:20, 143:24, 144:8, 144:16, 145:3, 148:11, 153:19, 154:23, 156:23, 159:15, 159:22, 160:16, 160:18, 178:13, 179:22, 182:3, 182:13, 184:3, 186:9, 187:11, 190:15, 194:21, 196:3, 201:6, 202:7, 205:17, 207:12, 209:2, 211:19, 212:21, 213:9, 215:19, 216:10, 218:14, 222:11, 222:23, 224:7, 224:11, 224:12, 224:13, 224:25, 226:17, 227:12, 233:13,</p>	<p>238:8, 238:19, 242:4, 244:8, 244:14, 252:13, 252:20, 260:11, 266:23, 267:7, 268:8, 268:23, 268:24, 269:12, 273:22, 274:5, 283:2, 285:5, 285:8, 296:5, 301:13, 306:5, 309:3, 309:6, 318:10</p> <p>front [35] - 92:15, 92:17, 92:23, 93:3, 93:16, 93:23, 93:24, 94:3, 98:9, 99:22, 100:14, 112:3, 128:20, 133:10, 134:8, 134:15, 151:6, 155:2, 155:5, 162:24, 212:15, 212:17, 212:20, 213:2, 213:6, 226:5, 246:5, 246:8, 247:15, 261:6, 261:11, 262:3, 262:15, 262:19</p> <p>full [2] - 10:15, 101:20</p> <p>fund [1] - 244:5</p> <p>funds [1] - 244:6</p> <p>further [1] - 323:14</p> <p>FURTHER [2] - 4:20, 320:8</p> <p>Fusion [1] - 269:23</p>
G			
<p>G [3] - 6:7, 10:17</p> <p>gap [1] - 303:6</p> <p>gather [1] - 314:18</p> <p>gathered [1] - 314:16</p> <p>gathering [3] - 187:13, 231:2, 310:17</p> <p>gave [8] - 89:9, 101:17, 251:24, 295:21, 296:2, 296:4, 296:7, 320:6</p> <p>general [4] - 50:3, 51:5, 64:5, 65:18</p> <p>generally [8] - 51:4, 59:21, 63:3, 65:9, 68:9, 242:4, 301:23, 302:11</p> <p>generated [1] - 8:16</p> <p>generates [1] - 224:2</p> <p>generating [1] - 311:7</p> <p>gentleman [1] - 96:18</p> <p>gentlemen [1] - 256:24</p> <p>get [43] - 9:17, 34:13, 34:18, 50:3, 54:23, 65:10, 65:20, 67:15, 75:10, 89:18, 95:17, 107:11, 109:4, 109:8, 109:23, 120:8, 134:2, 144:18, 156:9, 156:12, 158:8, 158:15, 160:8, 165:8, 199:2, 201:9, 206:11, 208:25, 224:6, 224:11, 224:12, 224:13, 224:15, 224:19, 244:13, 258:23, 276:21, 289:15, 291:6, 303:7, 303:10, 306:5, 309:24</p>			

<p>gets [3] - 96:21, 103:2, 103:23</p> <p>getting [3] - 112:15, 157:19, 251:17</p> <p>girl [4] - 149:4, 149:12, 150:17, 152:5</p> <p>give [12] - 53:12, 53:13, 53:16, 95:25, 130:13, 133:7, 191:18, 191:22, 219:24, 232:18, 276:7, 296:19</p> <p>given [6] - 12:21, 13:7, 13:18, 56:4, 320:10, 323:13</p> <p>giving [2] - 87:5, 191:19</p> <p>glare [1] - 299:16</p> <p>glasses [1] - 11:9</p> <p>go [61] - 6:24, 27:14, 37:8, 38:5, 39:13, 43:16, 47:2, 50:2, 53:9, 66:3, 66:4, 68:10, 69:15, 71:12, 76:4, 77:25, 87:17, 96:8, 99:15, 104:2, 104:9, 120:8, 130:13, 130:20, 133:21, 149:11, 154:18, 169:22, 173:11, 179:20, 179:21, 181:15, 182:20, 184:24, 191:18, 191:21, 197:6, 203:11, 203:18, 208:5, 221:13, 223:4, 226:24, 231:21, 231:23, 233:7, 237:13, 249:15, 254:6, 257:16, 275:5, 281:15, 287:6, 287:13, 289:8, 296:12, 296:22, 300:9, 301:4, 301:7</p> <p>GO [1] - 47:4</p> <p>GO-15'd [1] - 45:21</p> <p>goes [5] - 8:22, 95:3, 182:9, 182:24, 251:19</p> <p>going [97] - 6:22, 6:24, 7:21, 14:24, 17:22, 24:9, 25:20, 26:10, 32:19, 50:2, 68:21, 69:15, 69:23, 72:5, 73:19, 74:23, 75:20, 76:7, 78:13, 80:3, 83:22, 87:21, 94:23, 99:8, 99:18, 99:23, 103:17, 103:25, 104:6, 112:11, 123:24, 124:10, 124:12, 130:18, 138:2, 147:5, 147:7, 147:12, 155:22, 158:4, 169:25, 172:4, 173:11, 178:6, 181:19, 183:2, 187:7, 194:22, 194:23, 195:4, 195:21, 201:9, 205:13, 205:17, 205:18, 205:19, 206:4, 208:12, 211:24, 220:5, 226:4, 226:11, 235:24, 237:16, 237:22, 238:2, 239:3, 248:25, 249:15, 251:25, 261:23, 263:13, 263:15, 263:16,</p>	<p>264:6, 265:9, 268:4, 270:22, 281:18, 282:21, 297:21, 299:7, 299:11, 299:17, 300:9, 301:4, 302:21, 309:5, 310:21, 311:5, 311:14, 311:17, 313:5, 313:11, 317:24, 318:7</p> <p>gone [2] - 112:16, 287:14</p> <p>gonna [5] - 67:18, 169:21, 173:6, 287:14, 313:4</p> <p>good [8] - 6:19, 19:19, 47:12, 47:18, 62:18, 62:19, 147:10, 213:22</p> <p>got [37] - 17:11, 22:6, 36:5, 36:24, 52:12, 52:19, 52:22, 53:17, 78:16, 89:7, 95:20, 98:16, 100:21, 102:22, 113:3, 123:25, 128:11, 128:14, 134:14, 137:20, 143:6, 145:4, 154:17, 155:13, 155:18, 156:22, 161:21, 168:5, 184:2, 187:15, 193:4, 197:5, 251:3, 267:2, 289:11, 296:5, 303:11</p> <p>gotten [5] - 34:3, 176:15, 244:8, 276:17, 276:22</p> <p>grab [1] - 66:5</p> <p>grabbed [1] - 228:21</p> <p>graduating [1] - 36:7</p> <p>gravity [1] - 151:16</p> <p>ground [4] - 6:24, 123:17, 231:8, 304:9</p> <p>grounds [1] - 237:10</p> <p>guarantee [1] - 268:11</p> <p>guess [21] - 8:11, 22:5, 39:10, 55:14, 59:9, 143:4, 161:25, 171:2, 171:5, 189:17, 201:18, 217:20, 220:7, 225:13, 229:4, 260:11, 262:3, 265:25, 268:22, 271:19, 272:10</p> <p>guide [17] - 66:7, 66:10, 67:21, 67:24, 68:5, 68:6, 68:14, 68:15, 68:22, 70:3, 75:21, 76:5, 199:14, 199:21, 200:16, 321:8</p> <p>guideline [3] - 64:3, 67:10, 67:12</p> <p>gun [4] - 46:22, 268:25, 269:4, 269:9</p> <p>guy [11] - 19:17, 95:25, 97:6, 97:8, 128:16, 158:15, 178:6, 230:3, 236:15, 298:11, 298:12</p> <p>guys [2] - 155:14, 237:3</p>	<p>ha [1] - 265:22</p> <p>Had [1] - 141:10</p> <p>had [114] - 15:22, 21:16, 27:5, 27:6, 27:11, 27:24, 27:25, 29:15, 32:4, 32:24, 38:24, 43:12, 45:7, 47:2, 52:8, 52:13, 54:16, 54:22, 56:4, 64:10, 64:13, 78:7, 82:17, 85:16, 85:20, 85:24, 86:4, 86:17, 86:25, 100:8, 100:15, 101:12, 105:17, 105:23, 106:7, 117:10, 118:14, 119:18, 121:24, 123:6, 123:16, 125:2, 125:10, 125:11, 125:12, 125:13, 126:7, 128:15, 130:17, 131:3, 131:11, 131:14, 133:9, 134:7, 135:15, 136:6, 136:15, 136:19, 137:22, 139:3, 139:4, 141:18, 141:21, 141:22, 146:2, 150:14, 152:18, 153:10, 156:2, 156:22, 162:16, 163:16, 166:9, 182:20, 183:21, 190:17, 191:18, 191:21, 201:24, 202:6, 211:7, 211:10, 212:20, 218:2, 218:19, 224:13, 225:6, 225:13, 229:22, 235:4, 235:13, 236:4, 237:2, 254:18, 254:21, 259:13, 261:5, 267:10, 268:9, 272:21, 283:20, 283:23, 287:19, 287:22, 287:25, 289:5, 294:10, 299:3, 312:14, 312:15</p> <p>hadn't [3] - 195:9, 294:7, 294:17</p> <p>half [4] - 102:23, 102:24, 164:2, 255:17</p> <p>halfway [1] - 111:20</p> <p>hand [34] - 20:4, 89:4, 92:11, 97:10, 102:7, 102:18, 102:20, 147:23, 147:24, 147:25, 148:2, 148:5, 151:9, 153:7, 154:14, 154:16, 154:25, 155:2, 155:6, 157:24, 190:16, 190:17, 213:19, 228:14, 295:24, 300:17, 307:20, 307:23, 310:18, 311:7, 313:18, 323:20</p> <p>handcuff [14] - 113:8, 113:10, 228:4, 228:13, 228:17, 228:21, 228:24, 229:8, 229:23, 230:3, 235:9, 235:11, 307:10, 309:19</p> <p>handcuffed [15] - 115:16, 120:16, 125:24, 126:8,</p>	<p>127:8, 134:2, 164:8, 203:21, 204:4, 226:21, 228:22, 238:12, 239:18, 281:6, 310:10</p> <p>handcuffing [1] - 169:11</p> <p>handcuffs [1] - 315:3</p> <p>handle [5] - 119:22, 119:23, 119:25, 147:21, 154:15</p> <p>hands [1] - 121:9</p> <p>handwriting [21] - 205:3, 207:20, 207:25, 233:21, 243:17, 243:21, 244:18, 244:24, 244:25, 245:3, 247:22, 247:25, 248:4, 249:10, 249:20, 253:11, 255:18, 277:21, 277:25, 280:2, 280:5</p> <p>handwritten [1] - 249:3</p> <p>happen [4] - 17:24, 19:9, 143:21, 220:6</p> <p>happened [90] - 16:5, 16:10, 26:18, 28:23, 29:18, 45:7, 47:23, 48:2, 48:7, 48:12, 48:18, 56:15, 61:18, 76:12, 77:5, 82:13, 82:15, 87:15, 88:7, 89:7, 89:8, 90:22, 91:10, 97:3, 97:17, 99:25, 100:5, 104:9, 104:13, 108:24, 115:18, 116:8, 116:10, 116:14, 117:10, 117:16, 117:18, 117:21, 118:14, 120:14, 123:22, 124:12, 124:23, 129:23, 129:24, 130:5, 131:11, 131:14, 131:22, 134:5, 135:21, 137:22, 138:17, 139:22, 140:17, 141:4, 143:19, 146:5, 148:21, 148:25, 150:12, 152:5, 152:17, 156:4, 161:24, 166:23, 167:4, 169:17, 169:18, 170:3, 170:8, 175:24, 177:12, 178:6, 198:19, 211:7, 216:4, 216:17, 217:17, 219:9, 220:8, 224:24, 231:16, 236:4, 272:21, 272:24, 276:18, 298:15, 312:15</p> <p>happening [1] - 212:22</p> <p>happens [4] - 103:23, 103:24, 113:6, 251:22</p> <p>happy [1] - 60:4</p> <p>hard [5] - 229:7, 266:9, 301:6, 309:18, 309:21</p> <p>harder [1] - 228:4</p> <p>harm [2] - 159:9, 201:9</p> <p>has [27] - 27:10, 41:2, 42:4, 55:11, 58:6, 61:16, 62:8, 66:7, 66:11, 70:18, 71:4, 94:23, 119:10, 142:3, 157:6,</p>
	<p>H</p>		
	<p>H [4] - 6:7, 10:17, 41:25, 321:2</p>		

<p>174:25, 210:6, 218:10, 223:14, 223:23, 228:13, 232:3, 234:7, 270:2, 284:25, 298:14, 299:3</p> <p>hasn't [1] - 174:18</p> <p>hauling [1] - 46:12</p> <p>have [202] - 8:17, 9:6, 9:9, 10:18, 11:21, 12:11, 13:9, 17:11, 17:13, 21:7, 21:11, 24:23, 26:17, 31:22, 32:23, 33:7, 34:16, 35:19, 38:20, 40:12, 40:16, 41:5, 43:15, 45:5, 46:17, 46:18, 47:17, 49:22, 49:25, 50:12, 50:18, 55:4, 55:25, 57:16, 58:16, 64:3, 64:5, 64:21, 65:16, 65:18, 66:17, 67:19, 72:11, 75:23, 79:8, 82:10, 88:12, 90:12, 93:12, 95:6, 95:8, 100:17, 101:7, 101:9, 104:7, 104:9, 104:23, 113:2, 113:17, 113:25, 115:9, 118:7, 118:16, 118:19, 120:20, 125:9, 125:25, 126:17, 129:2, 130:8, 130:19, 132:14, 132:23, 132:24, 136:3, 136:9, 137:9, 139:23, 140:9, 140:15, 140:19, 142:5, 143:22, 145:9, 152:7, 152:12, 155:14, 155:25, 156:5, 156:8, 158:12, 158:13, 160:14, 162:3, 175:3, 175:21, 176:15, 176:19, 177:10, 177:21, 182:8, 183:5, 184:7, 184:8, 184:9, 192:13, 192:16, 194:6, 194:24, 199:4, 201:13, 201:14, 202:8, 202:24, 202:25, 203:3, 204:10, 206:22, 208:15, 209:10, 209:18, 209:21, 210:17, 210:21, 217:9, 217:21, 217:22, 219:20, 221:5, 221:7, 221:8, 221:17, 222:25, 226:22, 230:19, 232:22, 234:17, 240:21, 240:25, 241:3, 241:9, 242:21, 244:8, 244:18, 245:4, 246:3, 246:13, 247:8, 248:8, 251:11, 253:23, 254:2, 255:20, 255:25, 258:5, 258:6, 258:20, 258:24, 259:18, 260:21, 262:2, 262:11, 262:23, 262:25, 263:11, 263:16, 266:21, 267:14, 267:23, 271:11, 271:18, 271:24, 273:3, 275:8, 276:17, 276:22, 278:8, 280:14, 283:6, 285:15, 285:16,</p>	<p>285:18, 286:11, 288:22, 291:19, 292:14, 297:2, 297:19, 311:21, 312:20, 312:21, 314:10, 315:16, 316:2, 316:5, 316:18, 317:5, 317:9, 317:14, 323:19</p> <p>have you [62] - 12:13, 12:14, 12:21, 13:18, 14:5, 22:24, 28:5, 28:9, 33:20, 33:24, 34:3, 34:21, 37:10, 42:10, 42:13, 42:16, 45:18, 45:21, 47:20, 48:6, 48:11, 48:16, 48:25, 57:17, 58:3, 60:25, 61:11, 68:14, 68:24, 69:5, 74:12, 74:14, 76:10, 77:3, 204:22, 207:9, 207:13, 210:3, 222:8, 222:12, 233:14, 233:17, 241:17, 243:14, 254:18, 254:21, 256:16, 264:15, 267:17, 273:16, 274:6, 277:14, 277:17, 279:4, 283:16, 286:7, 286:10, 286:12, 309:10, 309:13, 309:23, 313:15</p> <p>haven't [3] - 13:25, 48:2, 267:14</p> <p>having [7] - 6:8, 68:15, 105:20, 122:8, 301:6, 305:11, 320:4</p> <p>he [359] - 17:2, 17:3, 17:19, 17:20, 20:24, 21:5, 25:3, 26:17, 26:23, 42:4, 49:6, 49:8, 49:12, 50:5, 50:6, 50:14, 50:20, 51:20, 52:2, 52:5, 53:10, 54:9, 56:8, 60:6, 61:14, 61:16, 61:25, 62:5, 62:7, 62:8, 72:7, 80:18, 81:11, 86:22, 87:9, 87:12, 88:11, 88:17, 88:18, 89:3, 89:4, 89:9, 91:6, 91:8, 91:11, 91:13, 92:5, 92:10, 92:11, 93:18, 93:22, 94:16, 94:19, 95:13, 96:15, 96:21, 97:4, 97:6, 97:7, 97:23, 98:2, 98:5, 98:11, 98:18, 98:19, 98:25, 99:4, 99:8, 99:12, 99:21, 99:24, 100:11, 100:18, 101:15, 101:22, 101:23, 103:7, 103:10, 104:19, 106:7, 106:22, 107:14, 107:22, 107:24, 108:3, 108:5, 108:7, 108:8, 108:9, 108:11, 108:19, 108:21, 110:6, 110:8, 110:16, 110:20, 110:22, 111:6, 113:8, 113:15, 113:17, 114:6, 114:7, 114:10, 116:16, 116:18, 116:20, 117:19, 119:19, 119:21, 120:6, 120:25, 122:2, 122:4,</p>	<p>122:8, 122:13, 122:17, 122:21, 123:25, 125:10, 125:11, 125:13, 126:7, 126:18, 127:8, 127:10, 127:13, 127:25, 128:10, 128:11, 130:5, 131:14, 131:20, 132:7, 132:25, 136:19, 137:2, 137:4, 137:10, 137:18, 137:25, 138:3, 138:22, 138:24, 139:3, 139:4, 139:9, 139:13, 139:17, 143:9, 143:20, 144:23, 144:25, 145:2, 145:4, 145:5, 145:12, 145:23, 147:19, 148:9, 148:10, 148:11, 148:16, 154:9, 154:24, 155:4, 155:6, 155:13, 155:23, 156:10, 156:19, 157:6, 158:17, 160:6, 160:18, 161:15, 163:10, 164:8, 164:24, 166:12, 166:17, 168:17, 169:5, 169:24, 170:10, 171:9, 171:12, 173:5, 173:25, 174:18, 175:4, 177:5, 177:7, 177:10, 177:15, 177:21, 178:7, 178:11, 179:11, 179:12, 179:13, 179:14, 179:15, 179:23, 180:3, 180:6, 180:10, 180:11, 180:21, 183:20, 183:21, 184:2, 184:3, 184:8, 185:25, 186:2, 186:3, 186:4, 186:5, 188:24, 189:4, 189:16, 190:15, 191:5, 191:6, 192:11, 192:14, 194:23, 195:17, 195:21, 196:2, 196:24, 197:20, 201:20, 202:6, 203:7, 203:8, 203:20, 206:20, 209:3, 213:8, 215:20, 216:9, 216:21, 217:2, 217:3, 217:4, 219:13, 219:21, 227:17, 227:18, 228:3, 228:10, 228:13, 228:24, 229:11, 229:12, 229:13, 229:15, 229:22, 230:9, 230:15, 230:19, 230:25, 231:6, 231:8, 231:12, 231:14, 232:18, 238:13, 245:9, 245:12, 245:22, 246:5, 246:19, 246:20, 247:9, 247:15, 250:5, 250:17, 250:18, 250:19, 250:20, 250:22, 251:3, 251:5, 251:6, 251:19, 253:17, 253:24, 253:25, 254:3, 254:9, 254:10, 254:11, 259:8, 259:13, 261:16, 262:2, 274:16, 275:5, 276:14, 276:17,</p>	<p>276:21, 276:22, 284:12, 288:17, 289:2, 290:3, 290:5, 290:21, 290:23, 290:24, 292:7, 292:12, 292:15, 292:17, 292:22, 294:4, 295:2, 295:25, 296:7, 299:3, 305:2, 305:9, 305:12, 308:24, 310:9, 310:23, 311:20, 311:22, 311:24, 312:2, 312:4, 312:5, 312:7, 312:11</p> <p>He [1] - 92:8</p> <p>he's [41] - 50:21, 58:24, 58:25, 59:2, 59:4, 59:7, 59:10, 60:22, 62:19, 96:10, 103:2, 103:19, 112:16, 112:19, 112:21, 112:22, 126:25, 127:8, 144:6, 165:9, 168:14, 169:13, 182:10, 182:11, 182:22, 227:2, 228:7, 229:4, 246:7, 246:8, 288:15, 290:2, 290:8, 291:2, 291:15, 291:22, 309:2, 309:15, 309:20, 316:25</p> <p>head [2] - 122:10, 308:15</p> <p>heading [1] - 300:18</p> <p>headphone [1] - 166:4</p> <p>headphones [3] - 101:4, 106:8, 139:4</p> <p>headquarter [1] - 43:2</p> <p>hear [15] - 7:17, 97:11, 122:20, 122:23, 155:9, 166:8, 170:4, 171:7, 173:9, 178:24, 201:6, 216:13, 246:18, 246:22, 303:25</p> <p>heard [5] - 43:5, 146:2, 171:16, 172:5, 173:3</p> <p>hearing [1] - 12:25</p> <p>HEINS [2] - 1:3, 3:5</p> <p>Heins [12] - 5:15, 5:23, 6:21, 47:22, 48:12, 56:21, 154:8, 205:22, 244:22, 252:2, 284:12, 315:2</p> <p>held [9] - 2:9, 5:10, 25:22, 181:21, 237:18, 264:8, 281:20, 297:13, 318:2</p> <p>helmet [4] - 101:2, 122:5, 122:9, 123:7</p> <p>her [13] - 15:18, 15:22, 31:17, 31:25, 33:2, 33:3, 48:17, 93:13, 151:12, 151:14, 152:23, 153:10, 176:9</p> <p>here [26] - 22:6, 53:9, 60:21, 82:13, 150:3, 167:16, 167:17, 167:21, 173:12, 223:2, 224:21, 224:23, 233:7, 247:14, 262:20, 268:13, 268:18, 284:21, 289:16, 299:8, 301:5,</p>
---	--	---	---

<p>301:10, 304:24, 305:5, 315:25, 316:25</p> <p>here's ^[1] - 130:16</p> <p>HEREBY ^[1] - 4:5</p> <p>hereby ^[2] - 320:4, 323:8</p> <p>herein ^[1] - 4:7</p> <p>hereinbefore ^[2] - 320:11, 323:11</p> <p>hereunto ^[1] - 323:19</p> <p>hey ^[1] - 157:19</p> <p>hidden ^[1] - 174:10</p> <p>higher ^[2] - 308:9, 308:11</p> <p>highest ^[1] - 34:10</p> <p>highway ^[2] - 11:8, 78:19</p> <p>him ^[273] - 15:22, 17:2, 17:4, 48:7, 48:11, 50:5, 50:11, 50:12, 50:17, 50:18, 53:6, 53:13, 53:16, 53:18, 53:24, 54:4, 54:5, 54:12, 59:15, 59:23, 59:24, 60:3, 61:8, 61:12, 61:17, 61:21, 61:22, 62:4, 62:16, 74:23, 86:25, 87:5, 88:4, 88:8, 88:11, 89:12, 90:23, 92:5, 92:8, 92:11, 93:6, 95:9, 96:4, 97:12, 99:15, 99:18, 100:4, 100:9, 101:22, 103:25, 104:6, 104:15, 104:22, 105:21, 105:25, 106:6, 106:18, 107:2, 107:3, 107:7, 107:13, 107:14, 107:19, 108:4, 108:14, 108:16, 109:11, 109:25, 110:11, 111:2, 111:8, 111:14, 111:19, 112:3, 112:7, 112:9, 113:8, 113:10, 113:20, 114:17, 115:16, 115:22, 116:10, 116:14, 116:15, 116:18, 116:21, 116:22, 117:19, 117:23, 117:25, 118:6, 118:18, 121:18, 125:9, 125:16, 125:24, 126:8, 126:10, 127:7, 129:24, 130:4, 130:5, 131:6, 131:10, 131:13, 131:16, 131:18, 131:25, 132:2, 132:12, 132:13, 132:15, 132:16, 132:17, 132:19, 132:20, 133:12, 134:23, 135:24, 136:5, 136:9, 136:10, 136:16, 137:13, 137:14, 137:24, 139:10, 139:13, 139:23, 140:3, 140:5, 143:23, 144:9, 144:10, 144:16, 144:17, 144:18, 144:19, 146:3, 146:4, 148:9, 155:9, 155:19, 155:22, 156:8, 156:13, 156:24, 156:25, 157:3, 157:4, 158:5, 158:8, 158:20,</p>	<p>158:24, 159:9, 159:12, 159:15, 159:19, 159:22, 160:2, 160:7, 160:25, 161:3, 161:8, 161:11, 162:16, 162:19, 162:22, 163:11, 164:10, 164:22, 165:13, 166:17, 167:5, 169:11, 169:25, 170:17, 171:13, 171:16, 172:5, 172:7, 172:12, 172:13, 172:14, 172:20, 173:17, 173:23, 177:15, 177:18, 177:19, 178:13, 178:15, 182:12, 182:16, 183:24, 184:11, 187:7, 189:9, 189:14, 191:18, 191:19, 192:6, 197:19, 198:25, 200:3, 201:17, 201:24, 202:2, 202:8, 202:9, 202:17, 203:5, 203:21, 204:4, 206:17, 207:16, 225:5, 228:13, 229:8, 229:10, 229:23, 230:6, 230:13, 230:18, 230:20, 232:10, 232:18, 235:4, 235:9, 235:11, 235:14, 236:16, 237:7, 237:11, 238:5, 240:13, 255:14, 259:13, 266:3, 272:20, 276:24, 281:13, 285:2, 285:8, 289:5, 291:5, 291:16, 296:2, 296:4, 296:8, 303:7, 303:12, 304:9, 305:11, 306:3, 306:6, 307:10, 309:10, 309:13, 309:19, 309:23, 310:2, 310:14, 314:4, 316:21, 317:2</p> <p>himself ^[1] - 203:8</p> <p>his ^[146] - 16:25, 21:5, 42:8, 60:16, 74:14, 89:9, 89:10, 92:11, 96:12, 97:9, 100:8, 106:2, 106:24, 107:4, 107:11, 109:4, 109:8, 109:12, 109:23, 111:24, 113:8, 114:25, 115:3, 118:22, 118:24, 119:10, 119:21, 119:23, 120:25, 121:5, 121:6, 121:15, 123:6, 125:18, 125:19, 126:6, 131:3, 131:5, 134:15, 135:15, 136:12, 143:24, 144:19, 144:23, 146:8, 154:14, 154:25, 156:9, 156:12, 156:23, 157:24, 158:16, 158:21, 158:25, 159:11, 160:9, 160:12, 160:19, 164:13, 164:20, 165:11, 167:8, 167:15, 168:14, 168:16, 169:10, 174:9, 182:7, 182:12, 182:13, 182:14, 183:7, 183:12, 184:4, 184:14,</p>	<p>185:4, 185:14, 191:18, 191:22, 194:23, 197:2, 200:6, 205:21, 206:3, 206:7, 208:23, 210:24, 211:10, 211:14, 219:14, 224:24, 224:25, 225:4, 226:15, 226:19, 226:20, 226:23, 227:25, 228:3, 228:14, 228:21, 228:22, 228:25, 230:10, 230:11, 231:18, 238:7, 238:10, 238:11, 242:6, 244:12, 244:22, 250:19, 252:13, 256:25, 257:6, 257:16, 257:17, 260:11, 260:14, 261:25, 264:24, 266:24, 269:12, 271:4, 271:23, 274:11, 287:14, 301:2, 303:7, 303:10, 308:18, 309:2, 309:10, 309:13, 309:15, 310:3, 310:9</p> <p>Hispanic ^[6] - 86:24, 87:25, 90:22, 95:15, 96:18, 100:6</p> <p>hit ^[38] - 19:17, 33:5, 104:19, 110:2, 110:8, 111:8, 112:12, 119:22, 119:23, 120:6, 123:7, 123:17, 138:3, 138:24, 143:16, 149:5, 149:19, 150:19, 151:8, 152:21, 152:24, 154:15, 171:12, 172:7, 172:12, 172:13, 172:14, 172:20, 173:5, 178:14, 187:12, 219:14, 226:18, 236:16, 238:9, 261:16, 305:2, 305:9</p> <p>hitting ^[1] - 147:22</p> <p>Hogan ^[2] - 3:19, 5:5</p> <p>hold ^[5] - 76:6, 128:20, 235:4, 237:5</p> <p>holding ^[8] - 26:21, 27:16, 135:24, 281:4, 315:20, 316:10, 316:14, 318:8</p> <p>home ^[3] - 10:3, 244:11, 296:13</p> <p>honest ^[3] - 199:6, 235:20, 317:18</p> <p>honestly ^[3] - 135:13, 139:11, 166:25</p> <p>hood ^[2] - 271:2, 271:3</p> <p>hoped ^[1] - 156:9</p> <p>hopefully ^[4] - 155:23, 157:3, 158:17, 160:6</p> <p>hoping ^[1] - 158:15</p> <p>Hospital ^[2] - 215:24, 216:8</p> <p>hospital ^[18] - 30:24, 31:4, 31:8, 137:19, 151:14, 169:22, 169:25, 170:11, 173:11, 178:25, 181:8, 186:9, 208:12, 251:20, 251:25, 252:20, 256:4, 275:6</p>	<p>hour ^[5] - 104:25, 105:4, 105:7, 163:24, 164:2</p> <p>hours ^[22] - 9:5, 9:8, 9:11, 9:14, 9:19, 9:22, 25:15, 37:5, 43:21, 43:25, 44:3, 45:18, 77:14, 78:9, 78:10, 134:3, 147:7, 180:20, 180:23, 186:2, 205:11, 206:10</p> <p>house ^[5] - 58:13, 190:7, 190:16, 190:19, 190:20</p> <p>houses ^[2] - 190:7, 190:8</p> <p>how ^[114] - 6:25, 9:17, 12:13, 12:14, 20:9, 21:23, 24:11, 24:16, 25:13, 27:9, 29:14, 32:15, 36:12, 38:2, 39:6, 41:16, 42:4, 42:7, 45:5, 48:5, 48:10, 48:15, 54:12, 54:20, 56:9, 61:20, 62:3, 64:6, 64:22, 65:4, 65:9, 66:10, 69:9, 70:8, 70:24, 72:14, 76:25, 79:5, 87:15, 88:10, 92:9, 92:13, 92:16, 92:18, 92:19, 92:22, 93:2, 93:3, 95:20, 96:2, 96:14, 98:17, 104:21, 105:24, 106:16, 109:11, 111:5, 111:17, 113:9, 115:8, 117:8, 121:9, 121:10, 123:16, 128:11, 129:13, 129:14, 129:15, 130:13, 132:24, 133:25, 141:3, 141:13, 146:25, 148:16, 150:21, 154:23, 155:21, 156:3, 156:6, 157:4, 158:8, 158:14, 160:11, 163:19, 166:23, 171:23, 176:8, 176:19, 176:20, 177:10, 179:10, 180:21, 184:16, 188:24, 192:10, 210:10, 215:7, 228:23, 231:4, 231:17, 236:23, 246:15, 251:2, 251:5, 266:19, 267:15, 281:9, 293:14, 293:24, 301:12, 304:11, 306:21, 313:9</p> <p>How are ^[2] - 63:9, 63:22</p> <p>how did ^[13] - 19:23, 40:5, 58:10, 80:18, 95:17, 97:7, 120:2, 132:11, 132:12, 156:11, 190:13, 210:20, 295:23</p> <p>how do ^[15] - 17:20, 32:21, 60:2, 63:9, 74:20, 89:19, 90:15, 93:22, 131:24, 142:11, 142:22, 266:7, 269:2, 269:11, 312:2</p> <p>how is ^[1] - 308:24</p> <p>how many ^[21] - 13:6, 14:8, 23:7, 26:5, 28:8, 28:10, 34:6, 42:19, 45:23, 58:3, 81:25,</p>
--	---	---	---

82:9, 85:20, 86:3, 153:15, 175:13, 180:20, 187:23, 192:20, 197:12, 227:11 huh ^[14] - 7:13, 16:15, 143:2, 149:13, 165:10, 169:23, 187:10, 187:18, 187:21, 189:23, 205:7, 208:17, 235:3, 239:6 human ^[1] - 171:25 hurt ^[1] - 114:7 Hybrid ^[3] - 269:24, 269:25 hydrant ^[1] - 87:20	81:14, 81:16, 82:17, 82:18, 82:21, 82:22, 83:3, 85:7, 85:22, 86:5, 88:3, 88:12, 89:9, 89:10, 90:5, 90:23, 91:6, 91:7, 94:2, 94:22, 95:16, 95:18, 95:22, 96:4, 99:3, 99:5, 100:8, 100:9, 100:23, 101:7, 101:12, 102:9, 102:21, 104:4, 104:10, 104:11, 104:23, 105:9, 105:10, 105:22, 107:16, 108:8, 108:17, 108:24, 109:7, 109:8, 109:22, 110:6, 110:7, 110:8, 111:21, 111:25, 112:12, 113:9, 113:10, 113:14, 113:22, 114:13, 115:15, 116:2, 116:10, 116:24, 117:3, 117:7, 117:15, 117:24, 118:7, 118:18, 118:19, 119:2, 119:8, 119:18, 120:20, 121:3, 121:17, 122:22, 123:2, 123:10, 123:11, 123:22, 123:25, 124:17, 124:21, 125:2, 125:6, 125:15, 125:23, 127:5, 127:10, 127:15, 127:22, 128:2, 128:5, 128:14, 128:15, 128:21, 129:7, 129:21, 129:24, 130:3, 130:11, 130:17, 131:25, 132:12, 132:14, 132:17, 132:21, 133:5, 133:20, 133:24, 134:7, 134:8, 134:24, 135:8, 135:13, 135:23, 135:24, 136:5, 136:6, 136:7, 136:11, 136:12, 137:7, 138:8, 138:12, 139:2, 139:6, 140:2, 141:8, 141:20, 141:24, 143:3, 143:4, 143:14, 143:16, 143:25, 144:13, 145:2, 145:4, 145:15, 145:22, 146:4, 146:5, 146:7, 147:7, 147:24, 148:8, 148:9, 148:16, 148:20, 149:3, 149:8, 149:18, 149:19, 150:2, 150:3, 150:9, 150:25, 151:13, 151:18, 152:12, 152:17, 152:18, 153:5, 153:15, 154:6, 154:14, 154:17, 155:11, 155:13, 155:16, 155:25, 156:2, 156:5, 156:9, 156:15, 156:21, 157:17, 157:25, 158:12, 159:9, 160:14, 160:23, 160:25, 161:6, 161:25, 162:2, 162:9, 162:14, 162:19, 163:7, 163:15, 164:4, 165:22, 165:25, 166:4, 166:7,	166:11, 166:25, 167:13, 167:19, 168:15, 168:16, 169:12, 170:15, 170:19, 170:20, 170:25, 171:2, 171:5, 171:11, 171:17, 171:19, 171:20, 171:24, 172:7, 172:12, 172:14, 172:20, 173:2, 173:7, 173:23, 174:8, 174:9, 174:17, 175:3, 175:10, 175:16, 176:13, 176:19, 176:23, 177:4, 177:19, 178:2, 178:3, 178:10, 178:11, 178:20, 179:2, 179:5, 179:9, 179:23, 180:3, 180:5, 180:9, 180:12, 181:6, 181:11, 181:12, 182:2, 182:13, 182:20, 184:8, 184:18, 184:20, 185:9, 185:11, 185:13, 185:23, 186:6, 186:14, 187:6, 187:19, 188:5, 188:9, 189:4, 189:5, 189:9, 189:17, 189:19, 191:14, 191:15, 192:7, 192:9, 192:25, 194:8, 194:11, 194:13, 194:14, 194:20, 195:13, 195:18, 196:2, 196:6, 196:18, 196:20, 197:5, 197:9, 197:16, 197:24, 198:22, 199:4, 199:9, 201:8, 201:14, 201:16, 201:18, 202:6, 202:7, 202:13, 202:21, 203:3, 203:4, 203:7, 203:10, 203:13, 203:16, 203:21, 204:10, 206:22, 207:15, 208:7, 208:13, 208:15, 209:9, 209:15, 210:11, 210:18, 210:23, 211:3, 211:9, 211:18, 212:14, 212:20, 216:13, 217:9, 217:17, 217:20, 217:25, 218:3, 219:8, 219:11, 220:2, 220:7, 220:19, 221:6, 221:8, 221:9, 221:11, 221:17, 222:14, 222:20, 224:11, 224:19, 225:5, 225:6, 225:13, 225:14, 225:15, 226:2, 227:10, 227:11, 227:24, 228:17, 228:21, 228:23, 229:4, 229:8, 229:12, 229:15, 229:19, 231:4, 231:20, 232:10, 232:17, 232:22, 233:25, 234:17, 234:25, 235:4, 235:8, 235:12, 235:13, 235:22, 235:23, 235:25, 236:10, 236:16, 236:18, 239:17, 239:19, 240:21, 240:24, 240:25, 241:2, 241:16, 241:24, 241:25,	242:21, 244:18, 245:4, 246:24, 248:2, 248:5, 249:8, 249:15, 250:7, 250:10, 250:11, 250:19, 250:20, 251:14, 251:24, 252:22, 253:16, 253:21, 254:2, 254:3, 254:10, 254:11, 255:20, 255:25, 257:13, 258:3, 258:11, 259:2, 259:11, 259:15, 259:18, 260:11, 260:16, 260:21, 261:4, 261:15, 261:18, 261:23, 262:2, 262:21, 263:11, 265:25, 266:9, 266:13, 266:21, 266:22, 267:14, 267:15, 267:24, 268:6, 268:11, 268:17, 268:22, 269:14, 269:18, 270:4, 271:5, 271:24, 272:10, 273:3, 273:22, 275:2, 275:8, 275:11, 276:9, 276:13, 276:24, 277:19, 278:5, 278:8, 278:20, 278:23, 278:25, 279:15, 279:16, 279:25, 280:11, 280:20, 281:9, 283:20, 283:22, 284:5, 284:8, 285:2, 285:5, 285:18, 289:4, 289:13, 290:21, 290:22, 290:23, 290:24, 291:2, 291:3, 291:4, 291:6, 291:19, 291:20, 292:3, 292:4, 292:6, 292:10, 292:14, 292:22, 293:3, 293:12, 293:24, 294:9, 294:13, 294:23, 295:6, 295:16, 295:22, 295:25, 296:5, 296:14, 297:2, 298:23, 299:13, 300:4, 301:7, 301:20, 303:16, 303:24, 305:6, 305:19, 305:23, 305:24, 307:22, 309:8, 311:16, 311:20, 311:24, 312:4, 312:17, 313:3, 313:9, 314:4, 314:10, 314:15, 315:4, 315:5, 315:14, 315:16, 315:24, 316:5, 316:12, 316:16, 316:17, 316:18, 317:9, 317:18, 318:3, 318:4, 320:2, 320:4, 320:5, 320:8, 321:2, 322:2, 323:2, 323:7, 323:14, 323:16, 323:19 I'll ^[11] - 68:10, 72:21, 88:15, 100:9, 201:11, 201:12, 248:21, 256:22, 298:5, 313:23, 314:7 i'm ^[21] - 34:14, 43:18, 48:19, 48:21, 94:10, 102:18, 141:13, 143:14, 150:7, 154:13, 159:20, 163:7, 204:21, 210:2, 213:22,
I			
i ^[16] - 30:6, 30:14, 86:19, 101:16, 137:12, 143:2, 147:5, 165:22, 171:13, 193:20, 203:24, 219:10, 223:11, 294:12, 305:24, 311:23 I ^[806] - 4:2, 6:20, 6:23, 7:6, 8:5, 8:9, 8:10, 8:13, 8:22, 10:20, 11:15, 11:24, 12:17, 12:24, 13:9, 13:22, 14:4, 14:5, 15:15, 15:18, 15:25, 16:12, 16:16, 16:22, 17:25, 18:2, 18:5, 19:17, 20:12, 21:7, 21:11, 22:5, 23:9, 23:25, 24:22, 24:23, 25:16, 25:17, 25:25, 26:5, 26:7, 26:9, 26:17, 27:8, 27:15, 27:20, 27:22, 28:10, 28:15, 28:17, 28:22, 28:23, 29:6, 29:19, 30:9, 30:14, 30:22, 30:23, 31:16, 32:4, 32:19, 32:23, 33:5, 33:16, 35:18, 36:4, 36:24, 38:24, 38:25, 39:10, 40:7, 41:4, 41:15, 42:6, 42:20, 42:22, 42:25, 43:4, 43:5, 43:21, 43:22, 44:10, 45:17, 45:20, 45:24, 46:12, 46:13, 46:14, 47:2, 47:7, 47:10, 47:17, 47:18, 47:19, 49:21, 49:22, 49:24, 49:25, 50:5, 50:18, 50:24, 50:25, 51:2, 51:3, 51:17, 51:18, 52:7, 52:10, 52:17, 52:21, 53:3, 53:17, 53:18, 54:9, 54:10, 54:11, 54:12, 54:20, 54:22, 54:23, 55:2, 55:14, 55:24, 57:2, 57:14, 57:16, 58:25, 59:7, 59:9, 59:12, 59:17, 59:19, 59:20, 60:7, 60:12, 61:22, 62:8, 62:11, 64:3, 64:17, 64:19, 65:4, 65:8, 65:15, 65:16, 65:18, 66:4, 66:22, 66:24, 67:10, 67:17, 67:18, 70:14, 72:6, 72:10, 72:25, 75:19, 78:7, 78:16, 79:3, 80:20,			

<p>216:15, 223:17, 227:16, 234:24, 298:19, 308:11</p> <p>I'm ^[175] - 6:22, 6:24, 7:21, 11:23, 13:3, 13:21, 14:4, 14:24, 17:3, 22:5, 24:9, 27:17, 30:14, 31:9, 34:25, 36:5, 40:12, 41:11, 44:19, 45:15, 47:18, 50:2, 57:21, 60:8, 63:7, 66:14, 67:16, 67:18, 68:5, 68:20, 69:15, 70:16, 72:5, 74:22, 75:11, 76:7, 77:22, 82:23, 84:4, 102:10, 102:13, 102:14, 106:23, 107:7, 117:22, 118:19, 121:13, 122:18, 124:21, 126:5, 132:5, 142:9, 149:2, 158:15, 158:16, 158:22, 160:6, 162:8, 167:20, 171:6, 173:22, 178:22, 179:14, 179:24, 182:21, 188:20, 188:22, 189:13, 189:19, 192:21, 195:15, 197:9, 198:22, 198:23, 199:18, 201:9, 205:18, 210:10, 210:11, 210:15, 210:19, 214:10, 215:4, 217:20, 220:5, 221:4, 221:19, 222:7, 222:20, 222:24, 223:11, 223:16, 224:18, 225:13, 226:16, 227:6, 231:22, 233:12, 235:20, 236:18, 236:24, 238:23, 238:24, 239:2, 242:19, 243:7, 243:13, 244:5, 245:20, 248:24, 248:25, 249:15, 252:4, 252:5, 252:6, 253:2, 253:8, 253:12, 255:24, 256:14, 259:9, 259:12, 260:10, 260:16, 261:13, 261:23, 262:5, 262:9, 262:22, 263:13, 263:15, 263:16, 266:3, 266:10, 268:12, 270:2, 272:3, 275:21, 279:10, 279:14, 279:24, 280:12, 282:5, 284:21, 285:6, 287:5, 287:14, 290:15, 292:3, 294:14, 295:3, 299:7, 299:11, 299:17, 300:9, 301:4, 301:6, 301:10, 307:13, 308:8, 309:8, 312:16, 313:4, 313:5, 313:22, 316:21, 317:2, 317:10</p> <p>I've ^[1] - 313:17</p> <p>IAB ^[10] - 44:25, 76:23, 145:22, 146:11, 146:16, 146:19, 146:23, 174:25, 175:4, 236:17</p> <p>ID ^[10] - 10:25, 89:9, 89:10, 96:6, 100:8, 131:4, 131:5,</p>	<p>136:6, 184:4, 191:23</p> <p>idea ^[48] - 21:7, 21:11, 50:18, 64:21, 65:17, 65:18, 100:17, 101:8, 101:9, 101:12, 104:23, 132:14, 132:23, 141:5, 146:17, 146:20, 146:24, 152:12, 152:25, 160:14, 175:3, 176:19, 177:3, 192:12, 192:13, 199:4, 234:17, 244:18, 245:4, 254:17, 260:21, 261:3, 266:21, 267:14, 268:3, 270:13, 271:17, 271:24, 275:8, 285:15, 288:21, 291:19, 292:14, 297:2, 311:21, 314:10, 317:9</p> <p>identification ^[16] - 68:2, 204:16, 207:4, 221:25, 233:5, 241:7, 243:3, 248:13, 256:9, 260:2, 263:22, 273:10, 277:8, 278:14, 283:10, 285:24</p> <p>identify ^[1] - 5:19</p> <p>if ^[122] - 4:12, 4:15, 7:8, 7:13, 7:16, 7:20, 7:24, 8:5, 17:2, 17:11, 21:5, 24:10, 31:9, 49:21, 53:7, 55:21, 55:22, 64:8, 65:17, 66:18, 67:5, 67:18, 71:13, 71:21, 72:10, 72:11, 73:12, 73:16, 74:2, 75:20, 76:4, 76:6, 90:9, 90:19, 91:15, 100:11, 105:23, 108:21, 114:10, 119:3, 122:21, 131:14, 132:12, 136:5, 136:6, 136:15, 136:19, 136:21, 136:22, 137:7, 140:10, 142:19, 144:7, 157:6, 159:9, 161:2, 161:13, 166:7, 169:24, 170:16, 173:10, 176:25, 181:13, 184:7, 184:8, 188:3, 188:4, 197:18, 199:11, 200:14, 201:8, 202:6, 202:16, 210:20, 212:16, 212:19, 221:6, 222:3, 223:4, 227:10, 231:21, 239:19, 246:20, 250:8, 253:18, 254:2, 254:6, 256:11, 257:17, 258:5, 258:23, 259:2, 259:3, 259:13, 261:23, 264:11, 268:7, 268:9, 270:7, 275:12, 284:17, 284:22, 286:3, 288:25, 289:9, 289:12, 296:15, 296:21, 299:19, 304:13, 310:22, 311:14, 312:14, 313:6, 314:15, 314:22, 315:25, 316:9, 316:13, 318:4</p>	<p>illegal ^[5] - 9:15, 159:4, 159:7, 159:8, 185:4</p> <p>immediately ^[6] - 73:13, 97:23, 98:11, 120:9, 200:15, 201:12</p> <p>impact ^[3] - 36:10, 36:15, 212:8</p> <p>impeding ^[2] - 51:15, 54:24</p> <p>impression ^[1] - 101:18</p> <p>in ^[380] - 1:10, 3:12, 5:7, 5:13, 6:6, 9:5, 9:8, 9:11, 9:14, 9:23, 10:9, 12:7, 12:25, 13:3, 13:19, 14:6, 15:13, 15:17, 16:2, 16:5, 16:7, 16:10, 16:17, 16:18, 16:19, 16:23, 17:25, 18:6, 18:12, 18:15, 19:21, 19:22, 20:2, 20:7, 20:10, 20:14, 22:11, 22:17, 23:16, 26:14, 26:23, 27:2, 28:5, 28:9, 28:21, 28:23, 29:18, 31:13, 33:8, 33:20, 34:21, 36:15, 37:13, 37:24, 38:2, 38:8, 38:9, 38:14, 38:16, 38:18, 38:23, 39:6, 40:11, 40:17, 40:22, 41:4, 41:14, 41:16, 42:17, 43:16, 43:18, 44:5, 44:11, 44:15, 44:22, 45:2, 45:12, 46:11, 46:21, 49:2, 50:25, 51:23, 52:3, 52:8, 52:11, 52:14, 52:21, 55:16, 56:8, 56:12, 56:20, 56:24, 57:18, 57:23, 58:2, 58:4, 58:11, 58:22, 60:3, 60:16, 61:15, 63:5, 63:24, 65:3, 66:16, 68:8, 69:4, 72:14, 73:16, 74:12, 74:14, 75:21, 76:7, 77:4, 77:5, 77:15, 80:7, 80:8, 80:15, 81:7, 81:8, 81:18, 82:15, 83:12, 83:14, 85:10, 85:13, 88:25, 89:19, 90:8, 91:7, 92:15, 92:17, 93:3, 93:16, 93:23, 93:24, 94:3, 94:19, 95:20, 96:8, 97:24, 98:8, 99:22, 100:3, 100:6, 100:14, 100:22, 101:21, 101:22, 102:5, 102:6, 102:13, 102:23, 102:24, 103:23, 105:13, 106:8, 107:3, 111:12, 112:3, 112:15, 113:16, 113:24, 114:6, 115:24, 117:20, 118:7, 118:18, 119:4, 119:11, 122:12, 123:10, 124:4, 127:20, 128:20, 130:5, 131:21, 133:9, 134:8, 134:15, 137:2, 137:4, 137:11, 138:13, 138:23, 139:4, 144:9, 147:7, 149:14, 150:19, 151:5, 152:10,</p>	<p>154:8, 155:5, 155:13, 155:18, 158:16, 162:24, 164:5, 164:23, 164:24, 165:23, 165:24, 166:3, 166:11, 166:13, 166:14, 166:15, 166:16, 166:23, 167:16, 169:13, 169:18, 170:14, 174:12, 175:11, 175:14, 176:5, 178:5, 178:18, 180:16, 182:22, 182:25, 183:6, 184:14, 184:18, 185:4, 186:15, 186:20, 187:8, 188:7, 190:5, 190:6, 190:17, 190:19, 190:20, 190:24, 192:17, 194:25, 195:6, 195:16, 195:18, 196:11, 198:12, 198:20, 199:22, 200:3, 200:7, 200:10, 200:16, 201:25, 202:9, 202:18, 203:3, 204:8, 206:6, 206:7, 208:11, 209:16, 209:22, 210:5, 210:19, 210:23, 211:6, 211:21, 212:5, 214:7, 214:21, 216:21, 217:10, 217:21, 217:22, 218:6, 218:12, 218:19, 218:20, 218:21, 219:3, 219:15, 219:22, 224:21, 224:23, 226:23, 229:17, 230:22, 231:2, 231:3, 231:18, 233:18, 234:7, 236:18, 238:13, 242:7, 242:9, 244:11, 246:3, 246:5, 246:8, 247:15, 249:25, 251:5, 252:6, 253:14, 256:16, 257:5, 260:9, 260:10, 262:7, 262:14, 262:24, 263:10, 263:12, 265:20, 267:2, 268:2, 270:18, 271:10, 276:15, 282:18, 282:21, 282:22, 283:2, 284:7, 284:19, 285:7, 287:25, 288:2, 288:25, 290:24, 291:2, 291:4, 291:5, 291:7, 292:11, 292:16, 293:22, 294:20, 295:9, 295:18, 297:4, 297:21, 298:10, 300:17, 302:22, 302:23, 304:11, 306:8, 306:19, 310:14, 311:15, 313:21, 313:24, 314:3, 314:23, 315:3, 315:7, 315:19, 316:24, 317:12, 323:17</p> <p>IN ^[1] - 323:19</p> <p>incident ^[40] - 17:14, 18:8, 33:21, 44:6, 44:9, 44:12, 44:16, 44:23, 45:2, 45:13, 47:22, 48:8, 50:15, 55:15, 81:5, 140:21, 141:19, 178:19, 187:17, 196:10,</p>
---	--	--	---

<p>197:13, 203:3, 203:6, 207:13, 209:18, 209:23, 210:6, 213:9, 214:21, 220:2, 222:12, 233:14, 237:2, 274:13, 275:5, 297:19, 299:4, 299:8, 310:25, 317:4</p> <p>incidental [1] - 238:16</p> <p>incidents [1] - 203:4</p> <p>include [5] - 216:9, 218:6, 218:13, 219:15, 220:11</p> <p>included [2] - 220:17, 220:18</p> <p>including [1] - 13:3</p> <p>incredible [1] - 58:7</p> <p>indicating [6] - 76:9, 121:9, 167:17, 268:20, 281:14, 307:24</p> <p>individual [17] - 19:14, 28:5, 64:10, 75:15, 85:6, 94:9, 100:6, 100:14, 120:19, 133:8, 133:23, 189:7, 190:10, 191:5, 272:6, 297:23, 298:6</p> <p>individually [2] - 1:10, 3:12</p> <p>individuals [3] - 189:17, 190:5, 190:11</p> <p>influence [1] - 32:9</p> <p>information [32] - 67:15, 73:25, 74:9, 74:10, 177:11, 177:21, 208:14, 209:2, 209:8, 210:18, 210:21, 211:15, 217:10, 219:19, 222:24, 223:8, 223:25, 224:5, 224:7, 224:15, 224:19, 224:20, 224:25, 225:6, 234:7, 242:8, 244:8, 244:14, 244:16, 276:17, 276:23, 296:25</p> <p>INFORMATION [2] - 322:8, 322:9</p> <p>informations [1] - 222:22</p> <p>initially [3] - 125:13, 191:19, 195:10</p> <p>initiate [1] - 69:20</p> <p>initiative [4] - 79:19, 79:20, 89:15, 90:13</p> <p>injured [11] - 20:24, 30:18, 31:7, 31:9, 114:7, 151:10, 151:19, 189:5, 214:22, 258:23, 259:8</p> <p>injuries [12] - 21:6, 30:20, 60:16, 114:21, 123:5, 123:13, 151:12, 151:16, 167:7, 188:24, 258:16, 259:14</p> <p>injury [11] - 17:12, 21:10, 63:17, 114:14, 114:16, 122:11, 136:23, 257:5, 258:6, 259:2, 259:4</p> <p>input [2] - 223:7, 224:6</p>	<p>inputting [1] - 242:8</p> <p>inquire [1] - 188:23</p> <p>inside [8] - 78:20, 78:22, 78:23, 91:5, 94:10, 94:11, 95:18, 221:2</p> <p>instead [2] - 154:15, 245:10</p> <p>instructing [1] - 237:11</p> <p>instruction [1] - 296:19</p> <p>insurance [2] - 31:22, 31:25</p> <p>intake [1] - 16:12</p> <p>Intel [1] - 237:2</p> <p>intention [2] - 158:20, 158:23</p> <p>interacting [1] - 124:19</p> <p>interaction [1] - 130:9</p> <p>interactions [1] - 129:3</p> <p>interested [1] - 323:17</p> <p>Internal [1] - 175:6</p> <p>interrogate [1] - 255:11</p> <p>interrogating [1] - 255:14</p> <p>intersection [14] - 82:20, 83:8, 83:13, 84:9, 84:12, 87:23, 91:13, 97:6, 99:5, 194:12, 227:12, 227:17, 230:23, 235:22</p> <p>interview [7] - 44:25, 45:7, 175:7, 176:5, 276:7, 318:11, 318:13</p> <p>interviewed [23] - 44:15, 44:22, 46:17, 47:9, 76:11, 76:23, 131:21, 132:9, 146:16, 146:19, 146:22, 147:2, 175:18, 175:21, 176:9, 176:12, 176:16, 177:2, 192:3, 192:11, 206:17, 211:6, 276:4</p> <p>interviewers [2] - 177:11, 192:14</p> <p>interviewing [1] - 188:11</p> <p>interviews [3] - 77:5, 175:15, 275:23</p> <p>into [27] - 27:14, 35:6, 50:2, 69:23, 103:3, 111:17, 145:10, 151:6, 153:3, 153:9, 153:21, 158:21, 158:24, 175:6, 189:9, 191:11, 192:2, 216:12, 223:8, 223:25, 226:25, 242:8, 251:3, 292:17, 301:9, 301:18</p> <p>invalid [1] - 183:3</p> <p>inventory [3] - 182:8, 183:19, 259:7</p> <p>investigated [1] - 46:9</p> <p>investigation [7] - 45:12, 51:16, 54:25, 142:24, 188:15, 190:24, 236:17</p> <p>investigations [1] - 132:10</p> <p>investigators [5] - 132:24, 133:4, 176:5, 188:11, 206:18</p>	<p>involve [2] - 14:16, 174:7</p> <p>involved [5] - 74:12, 77:4, 218:19, 218:21, 242:7</p> <p>is [199] - 5:3, 5:4, 5:7, 5:10, 5:15, 6:4, 6:20, 7:4, 8:5, 8:15, 9:23, 10:8, 10:20, 18:18, 18:21, 19:3, 19:6, 20:18, 21:4, 22:5, 25:19, 28:11, 33:5, 33:10, 38:8, 45:25, 48:21, 50:25, 53:4, 55:10, 58:16, 58:22, 62:7, 67:6, 67:12, 67:17, 67:20, 68:7, 69:8, 69:9, 70:13, 72:23, 73:12, 75:6, 75:13, 81:6, 83:19, 83:21, 83:25, 84:12, 88:17, 88:18, 90:25, 94:16, 94:19, 95:13, 96:15, 96:17, 102:11, 103:10, 103:14, 108:11, 111:19, 113:23, 118:21, 120:15, 135:4, 140:6, 140:10, 143:12, 147:9, 148:8, 149:24, 150:8, 160:19, 161:5, 161:13, 161:14, 164:5, 164:8, 166:4, 167:20, 169:4, 178:8, 178:11, 178:20, 180:16, 180:25, 181:12, 182:15, 182:19, 183:3, 185:25, 186:2, 187:16, 194:14, 196:24, 197:2, 200:15, 200:21, 200:24, 201:16, 201:19, 201:20, 204:12, 206:24, 212:11, 213:17, 213:20, 216:16, 217:21, 219:3, 220:22, 221:4, 221:19, 221:20, 222:16, 222:20, 222:21, 222:24, 227:24, 228:13, 230:2, 232:24, 234:6, 238:16, 241:4, 241:23, 242:3, 242:23, 243:21, 245:3, 247:9, 248:14, 248:17, 251:17, 253:25, 255:3, 255:17, 259:12, 260:17, 261:24, 262:19, 263:2, 263:18, 267:13, 269:18, 270:22, 271:10, 273:6, 275:4, 275:13, 275:23, 276:13, 277:3, 277:21, 279:17, 283:20, 284:2, 284:9, 284:15, 285:13, 287:4, 289:2, 290:5, 291:10, 292:12, 293:14, 293:22, 296:5, 299:19, 299:22, 300:13, 300:23, 301:13, 301:17, 302:5, 303:11, 304:11, 304:14, 304:25, 305:10, 305:18, 311:13, 313:11, 313:13, 313:14, 315:2, 315:14, 315:20,</p>	<p>318:20, 320:9, 323:10, 323:12</p> <p>IS [2] - 4:5, 4:20</p> <p>Is [1] - 289:6</p> <p>is it your [5] - 67:7, 70:2, 144:8, 280:5, 292:11</p> <p>is that [71] - 7:10, 7:22, 11:22, 20:23, 33:11, 33:13, 39:11, 41:5, 42:2, 54:25, 57:24, 66:22, 75:24, 78:25, 84:5, 84:9, 88:17, 95:10, 110:11, 115:16, 131:3, 139:12, 141:6, 148:19, 154:9, 156:17, 159:23, 161:5, 164:5, 175:2, 177:8, 180:17, 186:8, 202:4, 209:23, 211:16, 214:20, 215:11, 217:23, 219:19, 220:13, 222:17, 223:10, 228:6, 245:18, 246:15, 247:21, 250:9, 254:12, 266:12, 266:24, 269:19, 270:17, 271:12, 272:3, 276:4, 282:4, 282:11, 285:3, 288:11, 288:19, 300:25, 302:10, 305:13, 305:19, 306:11, 307:10, 308:3, 315:3, 315:21</p> <p>is there [13] - 10:12, 24:16, 64:24, 89:17, 114:20, 163:9, 209:17, 214:5, 258:21, 299:16, 309:4, 317:5, 317:14</p> <p>is this [16] - 77:22, 135:14, 207:19, 233:20, 243:17, 253:10, 260:13, 280:2, 280:13, 283:22, 283:24, 301:21, 301:22, 302:4, 308:20, 314:17</p> <p>issue [3] - 133:22, 179:22, 182:17</p> <p>issued [8] - 85:24, 86:4, 86:8, 131:5, 131:16, 132:15, 133:12, 180:5</p> <p>issuing [1] - 100:7</p> <p>IT [2] - 4:5, 4:20</p> <p>it [338] - 7:12, 13:10, 14:15, 17:11, 20:18, 25:19, 26:6, 27:5, 27:20, 28:11, 28:23, 29:7, 32:5, 35:19, 35:24, 36:4, 36:5, 38:8, 39:24, 40:7, 40:8, 46:19, 47:3, 47:5, 49:23, 50:2, 51:2, 51:7, 51:15, 51:16, 51:18, 52:23, 53:4, 53:11, 53:12, 53:20, 53:25, 54:4, 54:5, 54:10, 54:11, 54:19, 56:4, 57:7, 57:15, 58:12, 59:21, 63:9, 63:10, 63:20, 63:21, 64:4, 64:6, 65:11, 66:18, 68:16, 69:5, 69:8, 69:17, 69:20,</p>
---	---	--	--

69:24, 70:14, 71:17, 72:10, 72:22, 73:3, 79:3, 79:20, 80:20, 83:19, 84:12, 89:2, 95:25, 97:22, 98:16, 102:22, 103:9, 103:14, 106:19, 108:23, 109:2, 111:19, 112:2, 113:23, 113:25, 119:3, 119:13, 120:14, 121:6, 122:16, 122:17, 123:3, 123:11, 124:7, 125:19, 126:5, 126:15, 126:20, 127:11, 127:12, 129:11, 129:15, 131:8, 135:16, 135:17, 137:7, 139:8, 141:13, 141:15, 142:3, 142:7, 145:2, 145:4, 145:5, 147:24, 148:23, 149:16, 149:19, 150:18, 152:14, 152:18, 152:19, 152:21, 152:22, 153:2, 154:13, 154:17, 156:2, 156:3, 159:4, 160:8, 161:14, 163:23, 165:4, 165:18, 165:22, 166:2, 167:20, 167:24, 168:25, 178:10, 179:16, 179:17, 180:5, 180:15, 180:25, 181:13, 182:16, 182:17, 183:3, 183:5, 183:22, 184:11, 184:19, 184:24, 185:9, 185:11, 188:3, 188:4, 191:14, 191:15, 193:22, 193:24, 196:23, 197:15, 198:9, 202:6, 202:21, 209:11, 210:20, 210:22, 211:25, 214:13, 214:25, 215:13, 217:10, 217:22, 218:4, 218:10, 221:5, 221:7, 221:8, 222:23, 223:10, 223:14, 223:20, 223:21, 223:23, 224:2, 224:11, 224:12, 224:13, 225:18, 225:21, 226:5, 227:4, 227:8, 228:18, 229:9, 229:22, 232:3, 232:4, 232:6, 232:7, 232:15, 233:17, 234:4, 234:7, 234:9, 234:19, 235:12, 235:19, 236:7, 236:13, 237:9, 237:10, 237:23, 240:6, 241:24, 242:13, 244:22, 245:6, 245:14, 245:18, 246:23, 246:25, 247:19, 250:17, 250:18, 250:20, 251:7, 251:13, 251:14, 251:24, 252:4, 252:24, 253:17, 253:22, 253:25, 254:3, 254:7, 254:8, 254:11, 255:5, 255:6, 262:13, 262:14, 262:19, 266:2, 266:3, 267:2, 267:4, 267:9, 267:10,	267:19, 267:22, 267:23, 268:12, 270:2, 271:9, 273:22, 274:6, 275:9, 275:13, 276:6, 276:9, 277:18, 277:19, 278:22, 279:2, 279:14, 283:20, 284:21, 284:25, 285:15, 286:19, 288:9, 289:6, 289:11, 289:14, 289:19, 290:22, 292:2, 292:3, 293:20, 293:25, 294:14, 295:22, 296:2, 296:4, 296:8, 299:13, 299:14, 299:18, 300:7, 300:10, 301:17, 303:25, 305:10, 305:18, 306:23, 307:8, 309:9, 309:18, 309:21, 310:13, 311:21, 313:5, 313:7, 313:15, 313:17, 313:23, 314:8, 314:15, 314:25, 315:15, 315:16, 315:19, 315:25, 316:22, 318:17 It ^[1] - 314:4 It's ^[2] - 217:18, 279:23 it's ^[82] - 8:13, 12:4, 12:6, 17:10, 20:13, 28:13, 43:12, 55:10, 59:12, 59:23, 63:7, 70:17, 73:16, 74:15, 78:20, 84:14, 103:16, 104:16, 109:21, 109:22, 120:21, 126:14, 138:9, 143:22, 153:5, 153:6, 159:4, 166:2, 168:24, 173:11, 184:18, 188:20, 188:21, 193:19, 194:13, 201:2, 202:16, 208:15, 209:16, 210:18, 212:17, 220:17, 220:18, 229:7, 230:21, 230:22, 234:25, 238:19, 238:21, 239:4, 245:16, 248:3, 248:18, 249:16, 251:10, 253:3, 253:18, 253:19, 254:2, 259:22, 261:12, 262:16, 265:23, 266:8, 268:21, 269:3, 275:12, 279:9, 279:22, 280:22, 284:3, 289:9, 299:2, 303:6, 313:9, 317:11, 318:6 itemize ^[1] - 134:8 its ^[1] - 238:21 itself ^[2] - 218:3, 218:11	202:6, 236:10 JOHN ^[2] - 1:10, 3:12 John ^[2] - 1:11, 3:13 Jones ^[3] - 18:17, 18:21, 19:3 Jones' ^[1] - 18:24 judge ^[1] - 58:8 Judge ^[1] - 4:13 July ^[3] - 1:15, 2:2, 5:4 jump ^[2] - 113:7, 150:18 jumped ^[1] - 100:3 Just ^[1] - 51:4 just ^[211] - 6:24, 7:6, 8:3, 12:4, 17:10, 21:18, 23:5, 24:10, 24:22, 25:9, 26:2, 26:10, 27:15, 36:24, 39:20, 40:2, 40:3, 41:9, 43:4, 47:18, 50:2, 50:3, 51:4, 52:8, 53:8, 54:22, 57:22, 59:20, 62:11, 63:2, 63:14, 63:19, 64:10, 64:14, 64:21, 65:9, 65:17, 66:4, 66:16, 67:6, 67:16, 68:7, 68:11, 68:20, 68:21, 69:15, 74:2, 78:16, 80:21, 82:22, 88:25, 89:6, 90:10, 93:12, 95:24, 102:9, 105:9, 107:7, 110:10, 110:20, 110:21, 110:22, 113:5, 120:25, 122:9, 123:6, 124:14, 128:15, 128:22, 130:12, 131:11, 131:14, 136:19, 136:20, 145:18, 146:4, 148:20, 149:11, 149:19, 150:17, 150:18, 152:14, 152:17, 153:3, 153:9, 154:6, 154:7, 154:18, 158:15, 165:5, 165:22, 167:8, 167:20, 170:20, 171:24, 173:2, 179:15, 182:22, 184:11, 188:21, 191:6, 191:17, 195:17, 199:11, 199:16, 201:5, 202:16, 202:25, 204:18, 205:8, 205:24, 210:19, 212:4, 213:16, 215:10, 216:16, 217:11, 217:15, 219:4, 219:8, 223:3, 223:13, 224:14, 224:23, 225:18, 226:8, 226:24, 229:4, 229:22, 230:10, 233:9, 235:21, 235:25, 236:15, 236:24, 238:15, 238:23, 238:24, 239:3, 240:5, 243:10, 248:21, 248:25, 249:8, 249:9, 251:13, 251:14, 252:6, 254:10, 255:5, 255:6, 256:12, 256:15, 256:19, 258:20, 259:3, 260:4, 260:19, 261:18, 262:16, 263:12,	264:11, 269:9, 269:18, 273:12, 275:4, 275:13, 275:19, 277:20, 278:25, 280:21, 280:25, 282:5, 282:17, 283:12, 287:3, 289:5, 290:14, 290:23, 291:16, 291:17, 292:16, 292:17, 294:13, 294:19, 295:15, 299:17, 299:18, 300:9, 301:4, 304:13, 305:6, 305:7, 307:21, 308:14, 310:8, 310:12, 310:13, 310:18, 311:24, 313:5, 313:6, 313:20, 314:22, 316:22, 316:25, 317:22, 318:12, 318:14 justice ^[1] - 34:17
K			
keep ^[7] - 65:2, 211:20, 228:24, 305:6, 305:7, 310:12, 311:14 Kelly ^[4] - 3:18, 6:2, 22:15, 23:14 kept ^[1] - 314:15 Kevin ^[3] - 6:2, 22:13, 22:15 kevin ^[1] - 3:18 key ^[1] - 215:11 kids ^[3] - 150:15, 153:13, 153:16 kind ^[13] - 84:20, 89:17, 121:8, 142:14, 153:20, 157:23, 244:12, 268:9, 268:21, 271:18, 308:14, 310:14, 311:4 knee ^[1] - 299:3 knew ^[2] - 107:18, 122:4 know ^[249] - 7:8, 7:18, 8:3, 8:13, 11:15, 11:16, 13:25, 15:9, 15:20, 17:20, 18:24, 20:17, 20:21, 21:5, 24:10, 27:15, 28:10, 28:23, 30:3, 30:9, 30:10, 30:13, 30:14, 30:15, 31:6, 31:16, 31:24, 32:15, 32:21, 33:5, 39:19, 43:21, 45:11, 45:15, 45:17, 47:18, 47:19, 49:24, 51:5, 52:3, 54:4, 54:6, 55:21, 55:24, 56:23, 57:2, 57:3, 58:8, 58:21, 58:25, 59:2, 59:3, 59:7, 59:8, 59:10, 59:17, 60:8, 64:17, 65:4, 65:6, 65:17, 67:11, 68:20, 86:18, 90:15, 93:15, 93:19, 93:22, 100:18, 108:25, 110:6, 110:7, 113:9, 116:16, 123:23, 131:20, 131:24, 132:7, 138:2, 138:12, 138:22, 139:9, 140:4, 141:3, 142:3, 142:11, 142:22,			

<p>143:2, 143:4, 143:18, 146:18, 146:21, 151:13, 151:15, 151:17, 152:24, 153:15, 154:2, 160:25, 162:4, 162:9, 163:7, 163:8, 165:25, 167:19, 168:15, 168:20, 170:16, 170:25, 172:13, 172:14, 172:15, 175:10, 175:20, 176:13, 176:25, 178:11, 178:20, 179:24, 180:3, 180:11, 180:12, 184:20, 187:7, 188:3, 190:9, 191:2, 191:14, 192:10, 192:25, 195:17, 196:11, 197:10, 197:12, 198:17, 198:19, 198:25, 199:16, 203:25, 204:19, 206:20, 207:7, 207:23, 210:10, 210:14, 210:18, 211:5, 211:9, 211:14, 217:17, 221:6, 221:11, 222:4, 227:10, 228:23, 229:15, 230:20, 231:20, 233:11, 236:10, 241:14, 241:22, 241:24, 243:11, 245:2, 245:9, 247:4, 247:24, 248:2, 248:3, 248:6, 248:22, 249:9, 249:15, 250:8, 252:4, 252:16, 252:18, 252:22, 253:13, 253:16, 253:22, 254:3, 254:4, 254:11, 254:15, 255:4, 255:7, 256:12, 259:11, 260:5, 260:25, 264:13, 265:3, 265:6, 265:13, 265:16, 265:20, 265:23, 266:8, 267:12, 267:15, 267:25, 268:23, 269:2, 269:11, 269:14, 270:3, 270:8, 271:14, 272:2, 272:6, 272:7, 272:8, 272:12, 273:13, 275:11, 276:3, 276:13, 277:11, 278:17, 283:13, 286:5, 288:8, 288:20, 289:4, 290:8, 292:10, 293:12, 295:20, 296:21, 296:24, 297:3, 299:19, 303:24, 307:23, 310:13, 311:16, 312:2, 313:6, 314:8, 315:6, 315:24, 316:9, 316:13, 317:19, 318:4</p> <p>knowingly [1] - 74:22 knowledge [1] - 127:18 knows [1] - 160:6</p>	<p>lane [7] - 83:23, 84:3, 84:5, 88:22, 103:17, 282:22, 300:17 largely [1] - 68:6 last [19] - 9:5, 9:8, 9:11, 9:14, 9:17, 9:20, 10:16, 10:20, 14:25, 23:5, 23:7, 23:9, 25:13, 62:12, 95:18, 281:24, 285:3, 285:6, 289:18 later [6] - 135:16, 135:17, 184:24, 191:25, 194:5, 287:13 laugh [1] - 21:8 LAW [1] - 3:9 law [2] - 35:9, 89:16 Law [2] - 5:25, 6:3 lawful [1] - 238:16 lawsuit [8] - 14:18, 15:5, 15:17, 20:18, 27:24, 58:22, 60:23, 297:25 lawsuits [2] - 67:13, 67:14 lawyer [1] - 286:17 lean [1] - 269:4 leaned [1] - 309:2 leaning [2] - 268:24, 269:9 learned [3] - 119:19, 121:24, 318:10 leave [4] - 186:12, 250:5, 255:5, 255:6 left [27] - 20:4, 89:4, 94:16, 94:18, 102:16, 102:18, 102:20, 103:8, 104:7, 106:24, 119:21, 119:23, 119:25, 147:23, 147:24, 154:16, 163:16, 167:18, 167:19, 173:16, 174:2, 191:6, 234:6, 253:7, 310:18, 313:18, 315:20 left-hand [8] - 89:4, 102:18, 102:20, 147:23, 147:24, 154:16, 310:18, 313:18 leg [1] - 16:25 legal [6] - 5:5, 58:17, 59:20, 60:8, 60:18, 60:20 Legal [1] - 5:6 legally [2] - 54:11, 54:12 length [4] - 93:5, 93:8, 94:4, 98:19 lengths [7] - 83:4, 83:5, 84:8, 92:21, 106:19, 227:21, 227:23 lens [1] - 11:18 lenses [5] - 11:10, 11:11, 11:14, 12:8, 12:15 less [10] - 93:5, 93:8, 94:4, 106:3, 150:22, 150:23, 150:24, 156:4, 164:3, 301:15 Let [1] - 302:2 let [60] - 7:18, 8:3, 19:18, 21:19, 24:10, 52:11, 63:2, 63:19, 64:8, 69:25, 72:9, 74:11, 75:12, 89:14, 95:24, 149:10, 159:17, 165:5, 191:16, 199:16, 202:25, 204:19, 207:7, 214:12, 218:22, 221:15, 222:4, 223:3, 225:5, 225:17, 226:24, 232:20, 233:10, 237:7, 241:14, 243:11, 244:9, 245:24, 248:22, 256:12, 260:5, 264:12, 268:18, 273:13, 277:11, 278:17, 278:19, 278:23, 283:13, 286:4, 299:18, 310:13, 313:6, 314:7 let's [16] - 23:11, 27:3, 64:9, 67:7, 68:20, 71:12, 128:22, 177:4, 179:20, 219:21, 230:18, 231:23, 233:13, 249:9, 289:15, 314:21 Let's [1] - 245:24 letter [2] - 57:13, 58:12 letting [2] - 255:4, 310:13 level [1] - 34:11 levied [1] - 198:25 license [7] - 41:3, 131:3, 191:19, 225:2, 288:17, 288:19, 289:2 Lieutenant [2] - 266:2, 266:3 lifted [1] - 128:8 lifting [1] - 46:11 light [41] - 64:14, 84:13, 84:14, 84:15, 88:3, 99:6, 99:15, 104:8, 112:13, 112:19, 116:17, 138:3, 148:10, 148:13, 148:17, 178:8, 178:12, 187:9, 194:12, 194:14, 194:19, 194:24, 195:15, 195:17, 195:18, 195:24, 196:4, 196:11, 196:22, 196:25, 197:2, 198:7, 205:20, 206:4, 226:13, 238:4, 282:23, 284:7, 284:16, 285:3, 285:8 light's [1] - 194:14 lights [15] - 80:4, 88:6, 104:10, 104:11, 105:17, 107:22, 107:24, 108:2, 128:18, 130:15, 130:17, 139:14, 156:13, 156:16, 303:25 like [93] - 12:19, 13:3, 13:23, 23:5, 26:4, 35:24, 39:23, 40:5, 40:7, 40:8, 43:24, 46:23, 47:5, 50:12, 51:5, 59:20, 61:25, 64:20, 67:12, 78:20, 78:23, 81:16, 84:23, 86:23, 93:20, 98:8, 110:20, 118:9, 120:5, 135:10, 150:14, 150:15, 150:17, 153:3, 155:4, 156:2, 157:20, 159:8, 161:24, 165:14, 168:25, 170:17, 170:18, 171:12, 176:20, 176:23, 180:10, 180:16, 183:20, 187:19, 194:14, 202:13, 214:13, 215:11, 217:16, 218:3, 220:22, 222:23, 222:25, 224:20, 228:4, 235:12, 235:20, 235:21, 236:21, 251:11, 256:24, 259:6, 260:17, 262:19, 264:25, 266:2, 266:3, 267:5, 267:13, 270:25, 271:9, 291:4, 299:23, 300:7, 302:7, 305:12, 307:9, 307:16, 311:15, 311:24, 314:4, 315:2, 315:19, 316:2, 316:10, 316:14, 316:20 Like [1] - 168:22 line [6] - 205:14, 216:6, 252:16, 252:23, 253:11, 282:24 lines [9] - 205:9, 217:21, 249:13, 249:14, 249:19, 249:25, 251:22, 252:5, 252:8 list [2] - 183:22, 216:19 listen [1] - 158:16 lit [1] - 149:11 literally [4] - 102:6, 149:19, 150:17, 156:4 litigation [3] - 31:12, 49:3, 61:3 little [17] - 43:13, 63:21, 76:8, 98:2, 149:12, 171:22, 226:25, 228:4, 229:5, 236:19, 289:9, 301:5, 301:7, 302:23, 307:17, 314:8, 315:15 lived [1] - 190:19 location [16] - 18:2, 71:25, 74:4, 116:21, 130:16, 160:24, 185:13, 195:3, 212:12, 212:16, 238:6, 243:25, 261:21, 301:23, 302:7, 305:2 logic [1] - 140:14 long [29] - 12:13, 12:14, 12:17, 21:23, 25:13, 36:12, 38:2, 39:6, 41:16, 42:4, 42:7, 88:10, 104:16, 104:17, 105:24, 111:17, 113:10, 121:10, 123:16, 160:11, 163:20, 192:10, 228:23, 237:2, 251:2, 251:5, 267:15, 273:20, 313:15 longer [1] - 173:12 look [41] - 19:22, 19:23,</p>
L	
<p>L [4] - 4:2, 241:4, 320:2 Labner [3] - 18:10, 18:18, 19:6 lady [2] - 29:20, 33:19</p>	

<p>19:24, 20:2, 86:22, 107:15, 110:20, 167:4, 190:16, 199:12, 199:14, 204:19, 207:6, 222:4, 231:15, 232:20, 233:10, 241:13, 243:11, 248:22, 249:9, 256:12, 256:24, 260:5, 260:17, 264:12, 271:9, 273:12, 277:10, 278:16, 278:21, 283:13, 284:22, 286:4, 289:12, 299:23, 302:7, 310:21, 313:10, 316:2</p> <p>looked [16] - 20:7, 20:10, 20:14, 24:11, 101:22, 101:23, 135:10, 164:24, 264:25, 267:5, 290:25, 292:22, 293:3, 293:6, 299:20, 314:4</p> <p>looking [50] - 16:20, 68:13, 69:16, 71:13, 73:2, 114:16, 161:4, 161:7, 161:11, 161:15, 189:18, 199:12, 199:20, 200:9, 223:13, 235:21, 249:9, 256:15, 257:3, 258:12, 260:9, 261:4, 261:21, 264:18, 265:19, 266:17, 269:6, 269:20, 277:20, 278:20, 280:21, 284:21, 286:18, 287:2, 299:13, 300:14, 301:17, 301:22, 302:3, 304:4, 304:21, 305:17, 306:17, 307:2, 307:13, 311:2, 311:4, 314:20, 314:22, 317:3</p> <p>looks [12] - 93:20, 214:13, 266:2, 266:3, 270:25, 300:7, 307:8, 307:16, 314:25, 315:19, 315:25, 316:20</p> <p>loose [1] - 106:12</p> <p>lose [9] - 37:4, 110:11, 110:13, 111:24, 153:25, 168:7, 169:10, 309:23</p> <p>lost [2] - 45:19, 110:6</p> <p>lot [2] - 124:5, 229:12</p> <p>loud [4] - 107:23, 108:3, 139:14, 312:6</p> <p>lower [1] - 308:9</p> <p>lucid [2] - 168:10, 168:21</p> <p>luck [1] - 152:18</p> <p>lunch [5] - 149:20, 149:24, 150:2, 150:3, 287:13</p>	<p>mail [1] - 49:10</p> <p>mailed [1] - 53:18</p> <p>mails [1] - 61:17</p> <p>maintain [1] - 203:14</p> <p>major [1] - 34:16</p> <p>make [34] - 8:18, 26:2, 31:21, 43:4, 53:11, 63:21, 75:12, 81:21, 81:22, 82:2, 82:23, 98:3, 101:14, 102:9, 105:10, 130:20, 136:20, 140:2, 140:5, 147:18, 157:23, 174:9, 176:14, 182:21, 194:2, 194:6, 210:4, 225:5, 255:2, 258:22, 259:8, 287:17, 294:13, 296:9</p> <p>makes [2] - 103:7, 276:11</p> <p>making [2] - 309:18, 309:21</p> <p>male [16] - 18:18, 18:20, 18:21, 18:23, 42:2, 42:3, 53:4, 53:5, 86:20, 86:21, 86:24, 87:25, 95:13, 95:14, 120:22, 120:23</p> <p>man [2] - 90:22, 133:7</p> <p>manner [3] - 200:3, 200:7, 283:3</p> <p>many [2] - 36:4, 235:24</p> <p>marijuana [13] - 9:12, 179:14, 181:25, 185:2, 185:8, 185:22, 187:20, 206:7, 226:23, 238:14, 277:4, 277:6, 279:12</p> <p>mark [10] - 140:11, 142:12, 142:14, 212:20, 213:5, 262:11, 275:19, 277:2, 291:23, 302:12</p> <p>marked [40] - 62:12, 67:19, 67:24, 80:9, 204:11, 204:15, 206:23, 207:2, 221:18, 221:23, 223:18, 232:23, 233:3, 240:22, 241:2, 241:3, 241:6, 242:22, 242:25, 248:9, 248:11, 255:17, 255:21, 256:2, 256:7, 256:20, 259:19, 259:24, 263:17, 263:21, 273:4, 273:9, 274:19, 277:7, 278:9, 278:13, 283:7, 283:9, 285:19, 285:22</p> <p>marks [4] - 140:6, 172:16, 172:19, 268:17</p> <p>marriage [1] - 323:16</p> <p>material [1] - 318:9</p> <p>matter [9] - 51:6, 51:7, 65:11, 65:12, 72:10, 72:14, 72:22, 201:6, 323:18</p> <p>MATTHEW [2] - 1:10, 3:12</p> <p>May [1] - 285:13</p> <p>may [9] - 4:10, 4:14, 39:17, 72:10, 122:2, 122:8, 287:11, 312:20</p>	<p>maybe [4] - 172:6, 253:24, 253:25, 307:17</p> <p>me [186] - 7:6, 7:18, 7:20, 8:3, 9:23, 16:19, 19:18, 19:20, 21:19, 24:10, 25:12, 26:4, 29:17, 29:21, 32:23, 33:6, 36:6, 40:22, 43:22, 47:2, 47:4, 49:6, 50:6, 52:11, 53:8, 53:12, 54:9, 54:12, 57:21, 58:25, 59:14, 63:2, 63:19, 64:8, 66:15, 69:25, 71:16, 71:17, 72:9, 73:7, 74:11, 75:12, 82:12, 82:14, 84:16, 87:14, 88:7, 88:24, 89:6, 89:9, 89:14, 89:24, 91:9, 92:9, 95:20, 95:24, 96:2, 97:22, 103:13, 103:22, 106:16, 109:22, 109:25, 110:2, 111:5, 113:5, 113:9, 120:5, 120:25, 123:22, 124:9, 130:12, 135:9, 137:7, 137:25, 149:11, 149:19, 150:12, 159:17, 165:2, 165:5, 166:7, 166:22, 168:18, 169:16, 171:12, 173:5, 177:23, 179:23, 191:16, 193:14, 194:9, 199:16, 202:5, 203:9, 204:19, 207:7, 213:17, 214:12, 214:13, 215:17, 218:22, 221:15, 222:4, 223:3, 225:17, 226:9, 226:17, 226:24, 228:4, 228:9, 228:13, 228:23, 229:4, 229:7, 229:8, 230:15, 230:19, 232:20, 233:10, 236:15, 236:17, 237:23, 240:10, 241:2, 241:14, 243:11, 244:9, 248:22, 256:12, 257:17, 260:5, 260:8, 261:19, 264:12, 268:6, 268:18, 271:9, 273:13, 273:21, 277:11, 278:17, 278:19, 278:23, 280:25, 281:5, 282:18, 283:13, 286:4, 287:3, 290:19, 290:22, 290:23, 290:25, 292:23, 294:20, 295:2, 296:10, 296:19, 298:20, 299:18, 302:2, 302:17, 304:23, 307:22, 308:5, 309:18, 310:8, 310:10, 310:13, 311:11, 311:17, 312:19, 312:21, 313:6, 314:7, 315:2, 320:10, 320:18</p> <p>mean [39] - 13:22, 18:3, 41:8, 43:8, 49:9, 50:11, 60:19, 61:24, 63:12, 72:20, 78:9, 87:8, 91:17, 110:13, 122:16, 126:24, 132:12,</p>	<p>159:6, 176:23, 178:2, 194:14, 210:14, 223:24, 224:10, 224:19, 228:2, 232:9, 239:24, 242:17, 247:2, 251:5, 254:10, 258:9, 272:15, 281:8, 292:4, 292:16, 307:23, 317:10</p> <p>meaning [1] - 58:7</p> <p>means [18] - 11:20, 73:15, 122:13, 168:21, 212:5, 212:7, 212:8, 212:10, 212:16, 235:8, 235:16, 239:19, 240:14, 261:20, 287:17, 290:22, 292:9, 310:9</p> <p>meant [1] - 59:20</p> <p>Medical [1] - 321:15</p> <p>medical [34] - 11:24, 114:4, 114:10, 122:2, 122:8, 122:13, 122:21, 122:25, 171:9, 242:13, 242:16, 243:6, 245:15, 245:22, 246:15, 246:20, 247:3, 247:14, 248:11, 248:14, 248:15, 248:20, 251:4, 251:16, 251:17, 252:19, 252:25, 253:5, 253:9, 253:15, 254:7, 254:22, 258:23, 305:13</p> <p>medication [1] - 9:2</p> <p>meet [7] - 21:18, 21:20, 21:24, 22:7, 23:8, 23:13, 25:13</p> <p>meeting [1] - 27:11</p> <p>members [2] - 73:10, 200:13</p> <p>Memo [2] - 321:9, 321:19</p> <p>memo [15] - 24:11, 142:9, 142:10, 204:12, 204:15, 209:16, 210:19, 211:19, 224:13, 225:11, 225:19, 225:22, 267:8, 273:7, 273:9</p> <p>memory [7] - 9:3, 23:24, 24:7, 24:21, 128:10, 224:14, 284:20</p> <p>mental [1] - 247:19</p> <p>mentioned [1] - 284:11</p> <p>message [4] - 49:6, 49:9, 49:13, 193:5</p> <p>messages [3] - 285:20, 285:22, 295:21</p> <p>met [6] - 22:12, 22:24, 25:11, 25:12, 26:6, 26:11</p> <p>middle [13] - 10:18, 16:17, 16:24, 20:4, 88:25, 100:7, 101:21, 102:5, 102:6, 200:10, 282:18, 282:22, 316:24</p> <p>midnight [1] - 206:9</p> <p>Midroy [2] - 297:24, 298:3</p> <p>might [18] - 33:7, 46:17,</p>
M			
<p>made [23] - 8:23, 78:11, 85:21, 97:25, 98:5, 98:11, 98:14, 98:18, 99:21, 101:15, 104:7, 108:11, 108:19, 125:13, 138:10, 139:24, 140:9, 196:15, 236:2, 237:3, 251:7, 262:11, 271:23</p>			

<p>55:25, 57:16, 80:23, 113:17, 113:25, 196:3, 229:23, 236:11, 236:13, 262:2, 262:11, 271:19, 289:8, 302:11, 316:5, 316:18</p> <p>miles [3] - 104:25, 105:3, 105:6</p> <p>military [1] - 9:24</p> <p>mind [6] - 121:25, 172:6, 195:16, 195:18, 292:11, 293:22</p> <p>mind's [1] - 195:23</p> <p>mine [1] - 252:8</p> <p>minute [18] - 156:5, 301:8, 301:11, 301:14, 301:22, 302:4, 304:10, 304:22, 305:17, 306:9, 307:6, 307:9, 307:14, 307:25, 308:14, 309:6, 309:7, 317:22</p> <p>minutes [7] - 123:19, 123:22, 134:3, 134:4, 251:9, 300:24, 311:3</p> <p>miraculously [1] - 110:22</p> <p>mirror [14] - 19:22, 19:24, 19:25, 140:23, 140:25, 141:2, 142:4, 151:9, 152:20, 152:24, 153:21, 266:16</p> <p>mirrors [3] - 20:7, 20:10, 20:15</p> <p>misleading [2] - 216:25</p> <p>missing [1] - 182:21</p> <p>mistake [4] - 196:7, 196:15, 236:2, 239:22</p> <p>MO [1] - 240:6</p> <p>mom's [2] - 32:4, 152:15</p> <p>moment [1] - 99:2</p> <p>money [1] - 13:22</p> <p>month [1] - 16:7</p> <p>more [22] - 12:19, 13:12, 13:14, 13:16, 14:13, 27:14, 28:11, 63:2, 78:20, 104:24, 105:3, 105:6, 130:9, 148:20, 163:23, 164:2, 214:12, 217:21, 229:19, 230:7, 236:21, 311:14</p> <p>morning [5] - 6:19, 77:15, 186:15, 267:3, 267:5</p> <p>most [4] - 41:7, 41:11, 81:14, 212:10</p> <p>motorcycle [3] - 66:24, 67:3, 67:6</p> <p>motorcycles [4] - 41:2, 70:9, 70:10, 71:8</p> <p>move [1] - 221:15</p> <p>moved [4] - 39:10, 228:3, 305:24</p> <p>moving [6] - 40:25, 79:23, 79:25, 149:24, 240:5, 270:14</p> <p>mR [3] - 241:10, 250:23, 263:10</p>	<p>Mr [184] - 57:4, 58:21, 72:6, 74:13, 74:25, 75:6, 75:14, 75:24, 76:12, 77:6, 81:22, 82:4, 82:6, 82:14, 82:16, 93:16, 93:20, 98:22, 100:25, 101:14, 101:18, 101:25, 103:6, 106:2, 106:12, 106:17, 107:10, 107:12, 107:18, 111:23, 114:4, 114:9, 114:16, 115:10, 115:25, 116:11, 117:5, 118:12, 118:16, 120:9, 120:15, 121:24, 122:20, 122:23, 123:16, 124:18, 124:24, 125:8, 127:24, 128:7, 129:3, 130:9, 131:22, 133:10, 133:25, 134:11, 134:13, 135:7, 135:10, 135:19, 136:3, 137:10, 138:11, 139:24, 140:17, 142:13, 146:2, 154:21, 154:24, 157:24, 158:5, 160:15, 161:23, 162:15, 164:5, 166:9, 166:20, 167:7, 168:7, 170:5, 171:7, 173:3, 173:5, 173:10, 173:15, 174:4, 177:7, 177:17, 178:18, 178:25, 180:15, 181:8, 182:3, 182:9, 183:12, 185:19, 186:7, 186:20, 188:7, 188:24, 191:9, 191:21, 192:18, 194:21, 196:12, 196:23, 198:19, 199:22, 200:17, 202:25, 203:15, 204:7, 206:16, 208:11, 208:23, 209:2, 210:17, 210:25, 211:6, 213:2, 213:6, 213:8, 213:10, 218:23, 219:12, 220:7, 225:23, 227:12, 228:20, 236:4, 239:25, 240:11, 242:4, 242:9, 244:11, 245:21, 246:13, 246:19, 246:22, 247:14, 251:25, 254:16, 255:8, 255:11, 256:23, 259:7, 259:21, 260:14, 261:6, 261:25, 262:10, 264:21, 266:23, 269:12, 270:7, 270:23, 271:2, 271:3, 271:11, 274:11, 275:24, 281:12, 282:9, 282:10, 288:23, 290:6, 298:14, 300:25, 301:13, 301:19, 301:23, 302:4, 302:25, 303:22, 304:6, 306:8, 306:14, 307:5, 308:21, 311:18, 313:2, 317:4, 317:13, 318:10</p> <p>MR [202] - 6:12, 14:24, 15:3, 15:23, 16:3, 19:15, 20:25, 21:15, 22:14, 23:22, 24:5,</p>	<p>24:19, 25:16, 25:25, 30:7, 30:21, 31:14, 33:14, 37:15, 40:14, 40:19, 44:17, 45:8, 47:15, 49:4, 50:22, 52:15, 53:21, 54:7, 55:6, 56:5, 56:13, 57:10, 59:5, 62:11, 63:25, 64:15, 65:13, 65:24, 66:4, 66:20, 68:19, 69:11, 70:21, 70:25, 71:9, 72:16, 74:17, 75:3, 75:17, 75:25, 76:14, 76:19, 77:8, 80:25, 84:18, 89:21, 90:3, 90:17, 92:6, 93:12, 106:13, 107:5, 109:19, 110:4, 110:24, 111:13, 115:12, 119:6, 123:8, 125:21, 126:22, 127:3, 129:5, 129:19, 133:18, 135:11, 139:18, 140:12, 144:11, 145:13, 146:13, 147:5, 147:9, 147:17, 154:11, 158:10, 160:21, 162:6, 162:17, 163:3, 163:12, 168:20, 170:23, 172:17, 173:18, 175:25, 176:17, 177:13, 181:9, 181:15, 181:17, 189:10, 191:12, 193:12, 198:18, 199:23, 200:18, 202:11, 202:19, 203:23, 204:10, 206:22, 209:13, 209:24, 210:8, 212:23, 214:8, 217:6, 217:24, 218:8, 218:16, 219:6, 220:9, 220:12, 220:14, 221:17, 224:8, 224:16, 225:24, 227:14, 231:9, 232:22, 233:8, 237:5, 237:7, 237:9, 237:13, 240:21, 240:24, 240:25, 241:11, 242:18, 242:21, 243:7, 244:9, 245:24, 247:11, 248:8, 249:23, 250:15, 255:20, 255:23, 255:25, 257:8, 259:18, 260:19, 263:6, 263:14, 263:16, 264:3, 270:11, 271:16, 272:14, 272:16, 273:3, 273:5, 273:6, 273:23, 274:2, 275:2, 276:19, 277:2, 278:8, 278:10, 278:11, 279:20, 279:24, 280:17, 281:15, 281:23, 283:6, 285:18, 286:2, 290:10, 291:12, 293:11, 297:5, 297:9, 302:2, 302:13, 307:18, 308:8, 310:4, 315:22, 317:7, 317:16, 317:21, 318:3, 318:16, 318:19, 322:5</p> <p>Ms [2] - 6:5, 49:18</p> <p>MS [1] - 241:9</p> <p>much [8] - 9:17, 73:16,</p>	<p>138:23, 180:21, 184:16, 189:5, 199:10, 216:21</p> <p>mugshot [1] - 174:21</p> <p>murder [2] - 64:11, 67:7</p> <p>my [110] - 6:20, 7:5, 7:10, 7:11, 7:16, 7:17, 16:18, 16:22, 16:24, 17:25, 23:25, 24:8, 25:18, 32:4, 42:25, 46:21, 47:3, 50:14, 53:8, 55:12, 57:12, 58:12, 58:13, 60:12, 61:25, 62:5, 63:20, 87:19, 90:24, 94:10, 94:15, 96:8, 100:3, 101:22, 101:23, 102:7, 104:10, 110:9, 118:7, 118:18, 120:6, 126:15, 127:18, 128:10, 133:2, 137:18, 139:14, 140:6, 145:5, 146:8, 148:4, 148:13, 149:5, 150:19, 152:15, 152:22, 155:2, 157:5, 159:5, 162:8, 162:9, 168:18, 182:15, 186:25, 188:20, 195:13, 195:16, 195:18, 195:23, 196:7, 200:21, 200:24, 201:15, 201:17, 202:5, 206:8, 207:25, 218:18, 218:20, 222:25, 229:3, 231:3, 236:10, 236:18, 243:22, 244:17, 244:25, 284:20, 286:17, 286:23, 287:12, 291:14, 293:22, 296:5, 296:6, 299:2, 303:11, 304:14, 304:19, 304:25, 305:24, 310:22, 310:23, 314:12, 323:20</p> <p>My [2] - 5:4, 162:8</p> <p>myself [1] - 41:12</p>
N			
<p>N [8] - 3:2, 3:6, 4:2, 6:7, 10:17, 320:2, 322:2</p> <p>name [23] - 5:4, 6:13, 6:20, 10:15, 10:16, 10:17, 10:18, 10:20, 15:12, 18:5, 18:25, 24:9, 32:4, 42:8, 52:25, 86:18, 120:18, 223:15, 223:23, 232:4, 243:22, 269:22, 298:6</p> <p>named [1] - 297:24</p> <p>names [4] - 1:11, 1:12, 3:13, 3:14</p> <p>narrative [5] - 218:6, 237:23, 275:23, 282:19, 284:7</p> <p>narrow [2] - 63:20</p> <p>Nassau [1] - 34:14</p> <p>NASSAU [1] - 323:5</p> <p>natural [1] - 71:23</p> <p>nature [1] - 74:6</p> <p>nearsighted [3] - 11:17,</p>			

11:19, 11:20 necessary [2] - 55:17, 71:18 neck [1] - 170:17 need [14] - 11:17, 28:17, 49:24, 59:20, 122:2, 122:8, 122:13, 144:10, 218:4, 221:12, 246:14, 278:20, 279:16, 315:15 needed [6] - 12:14, 114:10, 122:21, 183:16, 258:24, 305:12 needs [1] - 288:17 nervous [2] - 236:20, 236:21 never [22] - 37:13, 47:17, 57:14, 61:22, 61:25, 62:5, 64:19, 76:22, 90:5, 132:13, 132:16, 146:7, 148:9, 159:2, 162:15, 173:23, 175:17, 186:7, 191:15, 218:21, 262:13, 270:7 New [18] - 2:11, 2:13, 3:6, 3:15, 5:7, 5:12, 5:14, 5:17, 5:24, 6:2, 6:9, 6:17, 323:8 new [1] - 244:10 NEW [5] - 1:2, 1:8, 3:9, 3:10, 323:4 next [39] - 7:10, 92:15, 94:15, 96:11, 97:3, 100:2, 103:23, 104:14, 107:3, 111:19, 112:5, 113:6, 116:9, 135:22, 155:15, 160:6, 160:19, 161:5, 161:14, 164:22, 165:13, 169:19, 194:10, 195:2, 196:14, 196:17, 205:14, 205:25, 231:22, 234:18, 246:25, 254:6, 262:24, 268:5, 272:2, 272:8, 288:7, 290:18, 296:19 NG [1] - 1:7 nice [1] - 287:10 night [30] - 9:18, 132:4, 132:6, 132:8, 132:20, 142:25, 145:2, 145:23, 173:21, 173:22, 173:23, 175:8, 175:13, 179:7, 186:8, 186:12, 187:25, 188:2, 188:7, 192:2, 193:8, 195:11, 195:16, 211:8, 233:23, 235:25, 236:5, 266:14, 276:8 nighttime [1] - 19:10 nine [1] - 314:23 ninety [1] - 34:9 ninety-eight [1] - 34:9 No [48] - 1:6, 1:9, 3:11, 9:7, 10:19, 17:17, 20:20, 31:18, 42:15, 44:7, 45:4, 45:10, 48:9, 51:13, 53:23, 54:17, 56:7, 77:7, 80:17, 82:5,	85:17, 87:3, 90:14, 115:14, 133:11, 135:17, 137:15, 150:25, 168:12, 172:8, 173:14, 177:9, 190:12, 197:11, 209:19, 240:2, 247:17, 252:17, 254:17, 256:18, 261:11, 262:13, 263:4, 276:5, 279:24, 298:4, 298:17, 303:23 no [361] - 9:4, 9:10, 9:13, 9:16, 10:14, 13:20, 14:3, 16:8, 17:12, 19:17, 20:16, 20:22, 21:7, 21:10, 21:11, 22:18, 22:21, 22:23, 23:17, 25:8, 27:13, 28:3, 28:12, 30:12, 30:17, 31:2, 31:5, 31:20, 32:8, 32:11, 32:17, 33:23, 34:2, 36:24, 37:3, 37:6, 37:17, 41:7, 41:11, 42:12, 44:8, 44:14, 44:24, 45:14, 45:20, 47:24, 48:4, 48:14, 48:24, 50:18, 54:2, 55:8, 55:20, 56:10, 57:5, 58:9, 60:17, 61:4, 61:19, 61:22, 62:25, 64:7, 64:21, 64:23, 65:16, 65:18, 66:13, 68:18, 69:7, 70:11, 72:18, 72:24, 74:19, 76:16, 76:17, 76:21, 76:24, 80:20, 84:24, 88:12, 88:23, 90:5, 93:18, 93:21, 95:3, 96:24, 98:5, 100:17, 100:20, 100:23, 100:24, 101:3, 101:7, 101:10, 101:12, 102:20, 104:23, 105:13, 105:15, 105:22, 106:9, 106:15, 110:18, 111:9, 111:10, 113:4, 113:18, 114:2, 114:5, 114:8, 114:11, 114:16, 114:19, 115:7, 117:11, 117:22, 117:23, 119:12, 119:15, 119:16, 119:17, 122:3, 122:10, 122:15, 122:16, 124:21, 125:15, 127:18, 128:5, 130:3, 131:12, 131:15, 131:19, 132:14, 132:18, 132:21, 135:20, 136:17, 139:11, 140:6, 140:7, 140:18, 141:5, 141:24, 142:12, 142:21, 143:13, 144:4, 146:12, 146:17, 146:20, 146:24, 147:3, 148:4, 150:2, 151:18, 151:20, 151:22, 152:3, 152:6, 152:9, 152:12, 152:14, 152:21, 152:25, 154:3, 154:5, 154:12, 155:16, 156:2, 156:20, 157:21, 158:6, 158:13, 160:14, 161:20, 162:13, 163:5, 163:14, 163:22,	163:25, 164:9, 164:18, 164:24, 168:2, 168:4, 168:9, 169:3, 170:6, 171:3, 171:4, 171:14, 172:10, 172:16, 172:19, 172:24, 173:20, 174:10, 174:20, 174:23, 175:3, 175:19, 175:22, 176:3, 176:19, 177:3, 177:19, 178:20, 179:2, 179:3, 179:5, 179:23, 181:3, 183:14, 183:17, 185:6, 186:10, 188:13, 188:16, 188:18, 189:15, 190:6, 192:12, 192:15, 194:4, 196:11, 196:13, 196:24, 197:2, 199:4, 201:5, 201:8, 203:16, 204:9, 204:24, 206:14, 206:19, 206:21, 209:21, 211:9, 211:23, 213:4, 213:10, 213:24, 214:4, 214:19, 214:21, 214:22, 214:23, 217:25, 219:8, 220:16, 220:18, 225:10, 228:4, 229:24, 232:7, 234:17, 234:18, 235:19, 236:24, 237:7, 238:23, 240:19, 241:21, 242:11, 244:16, 244:18, 244:21, 245:4, 245:16, 246:21, 247:23, 248:5, 250:25, 253:6, 253:17, 253:19, 254:8, 255:9, 255:12, 255:15, 255:19, 257:10, 257:13, 257:22, 258:18, 259:10, 260:17, 260:21, 260:24, 261:3, 264:17, 265:5, 265:8, 265:15, 265:18, 265:22, 266:21, 267:11, 267:14, 268:3, 270:13, 271:17, 271:20, 271:24, 272:13, 272:22, 272:25, 274:7, 274:9, 274:14, 275:8, 279:14, 285:17, 288:3, 288:21, 288:24, 290:12, 291:19, 292:14, 292:21, 293:8, 294:6, 294:18, 295:17, 295:19, 296:23, 297:2, 297:7, 298:2, 299:6, 306:20, 307:7, 309:12, 309:25, 310:6, 311:21, 312:9, 312:12, 312:16, 314:10, 314:24, 315:9, 315:13, 316:8, 316:12, 316:16, 317:9, 323:17 NO [2] - 1:9, 3:11 nod [1] - 7:13 non [1] - 9:24 non-military [1] - 9:24 nope [4] - 57:8, 146:9,	189:2, 274:17 normal [3] - 171:24, 228:12, 247:19 normally [1] - 219:15 North [1] - 146:25 north [4] - 83:13, 95:2, 103:18, 148:12 northbound [5] - 91:12, 194:22, 226:12, 238:2, 284:14 northeast [2] - 83:15, 83:17 northwest [1] - 87:19 not [185] - 11:23, 12:4, 13:17, 13:20, 14:3, 17:18, 19:17, 19:18, 21:17, 22:21, 27:17, 27:18, 30:3, 30:10, 31:6, 31:9, 31:24, 34:4, 34:25, 44:10, 45:20, 48:21, 54:3, 54:18, 55:9, 56:23, 57:9, 57:21, 58:7, 60:4, 60:5, 64:18, 66:9, 66:14, 66:23, 67:2, 67:8, 70:4, 71:8, 73:12, 74:19, 93:16, 93:18, 93:21, 102:23, 105:8, 106:7, 110:7, 114:12, 119:10, 121:13, 123:5, 136:21, 137:16, 138:23, 139:6, 139:9, 140:2, 140:5, 141:13, 143:13, 143:22, 144:5, 146:22, 147:23, 159:3, 159:8, 161:3, 162:8, 162:9, 165:15, 168:13, 168:23, 171:6, 172:9, 172:11, 172:22, 172:25, 179:2, 179:24, 180:11, 182:11, 182:21, 182:22, 184:11, 188:9, 188:19, 188:20, 189:3, 189:16, 189:19, 190:10, 192:21, 196:3, 196:17, 196:25, 198:22, 199:6, 199:8, 200:15, 200:21, 200:24, 201:10, 201:15, 202:16, 202:17, 203:3, 203:4, 203:6, 209:16, 210:10, 210:11, 210:18, 211:6, 211:14, 213:3, 213:22, 214:2, 215:9, 217:9, 217:18, 220:5, 220:17, 220:18, 220:19, 222:21, 229:19, 229:23, 229:25, 232:11, 236:11, 236:13, 236:21, 237:2, 237:11, 238:21, 240:4, 242:4, 242:19, 244:17, 244:23, 244:25, 245:20, 247:5, 247:7, 252:5, 252:19, 253:12, 255:8, 258:22, 259:9, 259:11, 265:22, 265:24, 266:4, 266:10, 266:23, 269:12, 271:22,
--	--	--	--

<p>275:12, 287:14, 290:12, 290:25, 292:11, 292:23, 293:17, 303:20, 310:6, 311:23, 313:22, 313:25, 315:9, 316:8, 316:21, 317:2, 323:14</p> <p>Not [1] - 194:4</p> <p>Notary [3] - 2:12, 6:9, 323:7</p> <p>NOTARY [1] - 320:22</p> <p>note [6] - 73:2, 73:3, 142:7, 200:10, 249:3, 255:2</p> <p>notebooks [1] - 211:22</p> <p>noted [1] - 267:9</p> <p>notes [6] - 209:18, 209:22, 210:4, 211:20, 215:14, 224:12</p> <p>nothing [12] - 20:8, 32:4, 55:11, 100:12, 142:15, 142:23, 210:16, 215:8, 218:2, 218:10, 230:11, 284:16</p> <p>noticed [1] - 141:21</p> <p>notify [1] - 73:23</p> <p>November [3] - 77:21, 77:23, 78:17</p> <p>now [63] - 5:2, 5:18, 20:18, 20:23, 22:4, 24:22, 41:18, 41:22, 47:20, 50:2, 51:3, 57:13, 69:16, 69:25, 73:2, 76:10, 83:13, 85:19, 86:18, 95:8, 125:8, 136:2, 137:12, 140:15, 147:9, 153:16, 156:7, 166:6, 183:4, 188:9, 192:16, 193:7, 199:20, 213:11, 216:6, 220:21, 221:7, 221:13, 231:21, 235:21, 236:16, 242:12, 250:7, 252:23, 261:22, 265:9, 268:4, 268:5, 274:18, 279:17, 287:11, 303:19, 304:5, 304:9, 304:11, 305:16, 306:17, 306:18, 307:2, 311:2, 318:23</p> <p>nowhere [1] - 67:16</p> <p>number [19] - 5:18, 10:23, 69:17, 69:24, 71:13, 73:19, 73:21, 74:6, 85:23, 141:7, 147:21, 184:20, 212:10, 212:11, 212:15, 243:24, 243:25, 274:19, 275:19</p> <p>NUMBER [1] - 321:7</p> <p>numbers [4] - 13:9, 28:17, 86:6, 221:2</p> <p>NYPD [12] - 35:7, 35:10, 35:20, 35:25, 42:17, 44:21, 45:12, 54:15, 55:5, 55:12, 55:19, 76:11</p> <p>NYPD's [1] - 62:23</p>	<p style="text-align: center;">O</p> <p>O [4] - 4:2, 6:7, 241:4, 320:2</p> <p>O-L-P-A [1] - 241:4</p> <p>oath [8] - 4:12, 10:5, 10:7, 10:8, 12:22, 12:25, 13:8, 14:6</p> <p>object [3] - 14:25, 275:2, 318:16</p> <p>Objection [1] - 202:19</p> <p>objection [133] - 15:23, 16:3, 19:15, 20:25, 21:15, 23:22, 24:5, 24:20, 30:7, 30:21, 31:14, 33:14, 37:15, 40:14, 40:19, 44:17, 45:8, 47:15, 49:4, 50:22, 52:15, 53:21, 54:7, 55:6, 56:5, 56:13, 57:10, 59:5, 63:25, 64:15, 65:13, 66:20, 68:19, 69:11, 70:21, 70:25, 71:9, 72:16, 74:17, 75:3, 75:17, 75:25, 76:14, 76:19, 77:8, 80:25, 84:18, 89:21, 90:3, 90:17, 92:6, 106:13, 107:5, 109:19, 110:4, 110:24, 115:12, 119:6, 123:8, 125:21, 126:22, 127:3, 129:5, 129:19, 133:18, 135:11, 139:18, 140:12, 144:11, 145:13, 146:13, 154:11, 158:10, 160:21, 162:6, 162:17, 163:3, 163:12, 170:23, 172:17, 173:18, 175:25, 176:17, 177:13, 181:9, 189:10, 191:12, 193:12, 199:23, 200:18, 200:19, 202:11, 203:23, 209:13, 209:24, 210:8, 212:23, 214:8, 217:6, 217:24, 218:8, 218:16, 219:6, 220:9, 220:12, 220:14, 224:8, 224:16, 225:24, 227:14, 231:9, 237:6, 237:10, 242:18, 247:11, 250:15, 250:23, 257:8, 270:11, 271:16, 273:23, 276:19, 280:17, 290:10, 291:12, 293:11, 297:5, 302:13, 307:18, 310:4, 315:22, 317:7, 317:16</p> <p>objections [1] - 4:21</p> <p>observation [2] - 101:7, 101:11</p> <p>observe [8] - 99:5, 99:15, 119:9, 119:13, 121:14, 187:7, 255:13, 271:3</p> <p>observed [8] - 87:25, 99:18, 148:9, 161:8, 215:25, 226:11, 238:2, 284:12</p>	<p>observing [3] - 87:16, 87:21, 124:14</p> <p>obstructing [3] - 231:19, 306:19, 306:23</p> <p>obtained [2] - 222:23, 273:22</p> <p>occasion [1] - 274:8</p> <p>occasionally [1] - 90:9</p> <p>occasions [4] - 14:9, 42:19, 45:23, 192:20</p> <p>occupants [1] - 74:8</p> <p>occur [1] - 122:7</p> <p>occurrence [1] - 215:19</p> <p>of [389] - 2:5, 2:9, 2:12, 2:13, 4:8, 4:9, 4:13, 4:14, 4:16, 4:17, 4:22, 5:8, 5:9, 5:14, 5:15, 5:16, 6:9, 6:23, 8:10, 13:3, 15:12, 16:10, 16:17, 16:18, 16:24, 18:5, 19:21, 20:17, 24:3, 24:4, 24:17, 26:14, 27:4, 32:7, 32:9, 32:10, 34:11, 35:3, 41:7, 41:11, 43:18, 45:5, 45:6, 52:25, 53:12, 54:20, 55:18, 56:11, 56:15, 56:21, 57:3, 61:12, 62:15, 62:16, 63:3, 63:5, 64:6, 64:24, 66:17, 67:6, 67:20, 68:2, 68:8, 68:10, 71:18, 71:24, 72:2, 72:6, 72:14, 73:10, 73:15, 73:24, 74:4, 74:5, 74:6, 74:7, 75:21, 76:5, 78:25, 81:14, 82:20, 83:12, 83:17, 84:3, 84:5, 84:16, 84:20, 85:4, 87:23, 88:25, 89:7, 89:17, 89:18, 91:13, 92:16, 92:17, 96:11, 96:21, 98:9, 98:25, 99:22, 100:7, 100:14, 101:6, 101:10, 101:21, 102:5, 102:6, 102:7, 102:17, 102:18, 103:2, 106:12, 107:10, 109:11, 110:8, 110:18, 111:10, 111:24, 112:3, 112:6, 112:15, 113:3, 113:7, 114:18, 120:4, 120:8, 120:12, 120:18, 121:8, 124:11, 124:19, 127:20, 128:10, 128:20, 133:4, 133:10, 134:8, 134:15, 140:16, 140:17, 140:22, 141:7, 142:14, 144:16, 145:3, 148:2, 148:5, 148:12, 148:13, 149:5, 150:13, 150:19, 151:6, 151:16, 152:23, 153:20, 154:8, 154:9, 154:14, 154:15, 154:20, 155:2, 155:5, 155:21, 156:24, 156:25, 157:16, 157:23, 159:19,</p>	<p>160:2, 160:12, 160:24, 161:18, 161:21, 162:24, 165:18, 168:6, 168:25, 170:13, 170:21, 172:3, 174:8, 182:25, 183:21, 184:25, 185:9, 185:16, 185:21, 187:17, 187:20, 188:15, 189:16, 190:11, 190:24, 195:11, 195:14, 195:19, 195:22, 196:9, 196:12, 196:24, 197:24, 198:3, 198:8, 199:22, 200:6, 200:10, 200:13, 200:17, 201:25, 204:16, 205:16, 206:6, 206:8, 206:12, 207:4, 207:13, 208:19, 209:21, 210:3, 210:5, 210:24, 211:22, 212:8, 213:2, 213:3, 213:6, 213:19, 214:6, 215:21, 216:4, 216:17, 217:8, 217:11, 218:13, 220:21, 221:3, 221:25, 222:11, 222:25, 225:14, 225:23, 226:5, 226:19, 226:22, 231:18, 231:22, 231:23, 232:3, 233:5, 233:14, 233:23, 235:5, 235:13, 236:16, 237:23, 237:24, 238:13, 238:20, 241:7, 242:3, 242:12, 243:3, 243:20, 243:25, 244:3, 244:8, 244:11, 244:12, 244:23, 245:10, 246:8, 247:15, 248:13, 248:15, 248:16, 248:20, 249:4, 251:16, 253:7, 255:17, 256:4, 256:9, 258:15, 258:20, 259:7, 259:20, 260:2, 261:6, 261:8, 262:3, 262:15, 262:24, 262:25, 263:7, 263:8, 263:9, 263:18, 263:22, 264:15, 264:20, 265:14, 265:17, 266:4, 268:9, 268:21, 268:22, 269:16, 270:9, 270:25, 271:3, 271:18, 273:10, 273:22, 275:5, 275:15, 276:16, 277:8, 278:14, 278:22, 282:18, 283:10, 284:6, 284:19, 284:23, 284:25, 285:2, 285:13, 285:24, 286:13, 286:19, 287:8, 288:5, 288:15, 289:16, 290:2, 290:15, 291:10, 291:14, 297:25, 298:6, 298:15, 299:4, 299:8, 308:3, 308:14, 308:17, 308:18, 310:14, 311:4, 312:13, 312:18, 314:5, 315:7, 316:7, 316:23, 316:24, 317:12, 317:13,</p>
--	---	--	---

<p>318:5, 318:13, 318:22, 319:3, 320:10, 320:19, 322:10, 323:8, 323:12, 323:15, 323:17, 323:20 OF [6] - 1:2, 1:8, 1:19, 3:10, 323:4, 323:5 off [84] - 25:3, 25:20, 25:21, 26:18, 29:2, 29:3, 33:17, 65:24, 66:3, 78:10, 81:12, 104:20, 106:2, 106:22, 110:7, 110:15, 110:17, 110:22, 116:20, 123:6, 125:2, 138:4, 138:21, 138:24, 139:5, 143:10, 143:15, 143:16, 147:12, 149:21, 149:22, 160:25, 161:3, 161:9, 161:15, 162:5, 163:16, 177:8, 178:14, 179:23, 180:4, 181:15, 181:19, 181:20, 187:12, 203:20, 205:22, 226:19, 229:22, 230:25, 231:6, 234:12, 234:15, 234:22, 237:13, 237:16, 237:17, 238:9, 239:13, 240:8, 245:16, 245:18, 247:5, 252:12, 253:14, 253:19, 253:23, 256:25, 264:6, 264:7, 281:2, 281:8, 281:15, 281:18, 281:19, 282:8, 282:19, 297:9, 297:11, 297:12, 317:21, 317:24, 317:25, 318:23 off-the-record [7] - 25:21, 181:20, 237:17, 264:7, 281:19, 297:12, 317:25 offense [4] - 71:23, 72:23, 74:6, 201:21 offered [2] - 240:7, 240:11 office [6] - 25:11, 57:14, 196:18, 283:21, 314:12, 314:13 Officer [82] - 1:8, 1:9, 3:10, 3:11, 6:19, 18:21, 18:24, 19:3, 47:21, 49:3, 52:13, 53:20, 54:15, 55:13, 55:22, 56:2, 56:24, 61:6, 62:15, 68:4, 68:13, 80:15, 80:23, 81:11, 90:25, 92:3, 92:23, 93:6, 95:9, 95:12, 96:20, 96:25, 97:18, 98:20, 100:15, 102:2, 102:4, 102:25, 105:20, 113:2, 113:19, 115:9, 117:8, 127:24, 128:3, 133:16, 133:21, 147:18, 154:19, 154:24, 172:22, 176:11, 179:10, 179:21, 180:16, 180:25, 185:24, 196:10, 204:12, 223:15, 225:9, 233:9, 236:23,</p>	<p>237:21, 251:24, 260:4, 264:11, 286:22, 286:24, 288:12, 289:23, 291:10, 292:11, 293:9, 293:14, 297:4, 297:18, 303:21, 307:5, 308:17, 313:24, 316:13 officer [64] - 11:4, 11:8, 18:12, 18:17, 28:2, 29:5, 29:8, 29:11, 29:15, 30:5, 46:15, 46:21, 62:17, 62:20, 63:5, 69:9, 77:12, 78:19, 79:12, 81:6, 100:3, 100:21, 101:20, 103:23, 112:10, 112:22, 118:3, 124:12, 134:22, 134:25, 135:6, 137:5, 181:24, 204:18, 207:6, 215:20, 222:3, 226:14, 232:3, 232:19, 234:5, 234:7, 238:5, 241:13, 243:10, 245:10, 252:20, 252:24, 256:11, 265:24, 268:2, 273:12, 277:10, 278:16, 283:2, 283:12, 286:3, 288:13, 299:11, 307:15, 307:16, 308:2, 315:20, 316:23 officer's [1] - 215:14 officers [10] - 18:15, 63:8, 117:13, 175:14, 178:24, 255:14, 315:7, 315:11, 315:19, 316:7 offices [2] - 2:9, 5:11 official [2] - 1:11, 3:13 officially [1] - 129:15 Oh [1] - 311:22 oh [30] - 11:15, 28:22, 53:3, 93:8, 126:10, 126:13, 179:15, 185:24, 196:11, 199:16, 212:7, 226:16, 227:6, 232:11, 242:6, 243:9, 244:17, 244:19, 245:2, 253:4, 255:24, 262:21, 269:25, 275:21, 279:14, 284:8, 285:6, 287:10, 290:21 Okay [6] - 26:25, 59:22, 97:7, 242:15, 273:16, 283:12 okay [1199] - 7:2, 7:3, 7:8, 7:10, 7:14, 7:20, 8:3, 8:7, 8:11, 8:12, 8:13, 8:19, 8:20, 8:24, 8:25, 12:7, 12:10, 12:13, 13:4, 13:16, 13:21, 14:8, 14:11, 14:17, 14:20, 15:3, 15:8, 15:16, 15:20, 16:2, 16:6, 17:9, 17:15, 19:3, 20:9, 20:13, 21:4, 21:13, 21:19, 21:23, 22:11, 23:4, 23:7, 23:11, 23:15, 24:9, 25:5, 26:14, 26:19, 26:22, 27:9, 27:18, 27:21, 27:23,</p>	<p>28:8, 28:13, 28:16, 28:25, 29:4, 31:10, 31:19, 32:12, 32:15, 32:18, 32:21, 32:25, 33:18, 33:20, 33:24, 34:6, 34:10, 34:16, 35:3, 35:22, 35:24, 36:12, 36:25, 37:10, 38:2, 38:5, 38:12, 38:16, 38:18, 38:22, 39:2, 39:9, 39:13, 40:5, 40:10, 40:17, 41:4, 41:8, 41:13, 41:19, 42:8, 42:10, 43:4, 43:8, 43:14, 43:17, 43:20, 43:25, 44:8, 45:11, 46:2, 46:16, 46:24, 47:5, 47:11, 47:20, 47:25, 48:5, 48:15, 48:23, 48:25, 49:8, 49:20, 49:24, 50:8, 50:16, 51:4, 51:11, 51:20, 51:23, 52:2, 52:7, 52:18, 52:21, 52:25, 53:4, 53:6, 53:10, 53:13, 53:19, 53:24, 54:5, 54:14, 55:3, 55:13, 55:21, 55:25, 56:8, 56:11, 56:16, 57:6, 57:16, 57:20, 58:2, 58:6, 58:10, 58:14, 58:18, 59:3, 59:9, 59:19, 60:2, 60:10, 60:13, 60:22, 60:25, 61:5, 61:8, 61:11, 62:3, 62:7, 62:10, 62:22, 63:12, 63:19, 63:22, 64:18, 64:21, 64:24, 65:6, 65:9, 65:19, 66:6, 66:10, 66:14, 67:2, 67:5, 67:14, 67:18, 68:24, 69:3, 69:5, 69:8, 69:14, 69:23, 70:8, 70:12, 70:15, 70:17, 70:24, 71:7, 71:12, 71:14, 71:21, 72:4, 72:7, 72:8, 72:22, 72:25, 73:6, 73:14, 73:23, 74:2, 74:11, 74:20, 74:24, 75:6, 76:4, 76:6, 76:8, 76:17, 76:22, 77:13, 77:16, 77:19, 77:25, 78:4, 78:8, 78:11, 78:13, 78:18, 78:25, 79:8, 79:11, 79:13, 79:17, 80:2, 80:6, 80:14, 80:22, 81:10, 81:15, 81:17, 81:25, 82:21, 83:7, 83:17, 83:24, 84:2, 84:4, 84:7, 84:11, 84:15, 84:25, 85:9, 85:12, 85:15, 86:7, 86:12, 86:20, 86:22, 86:25, 87:4, 87:7, 87:11, 87:14, 87:24, 88:5, 88:10, 88:13, 88:17, 88:21, 89:11, 89:14, 89:24, 90:7, 90:12, 90:15, 90:25, 91:9, 91:15, 91:20, 91:23, 92:3, 92:9, 92:13, 92:18, 92:22, 93:10, 93:15, 93:19, 94:2, 94:7, 94:13, 94:16, 94:19, 94:22, 95:17, 95:24, 96:5, 96:7, 96:14, 96:17, 96:20, 97:11,</p>	<p>97:14, 97:17, 97:21, 98:2, 98:10, 98:16, 98:24, 99:7, 99:10, 99:14, 99:17, 99:21, 99:25, 100:5, 100:10, 100:13, 100:18, 100:21, 100:25, 101:9, 101:13, 101:17, 101:25, 102:4, 102:9, 102:13, 102:16, 102:25, 103:10, 103:13, 103:19, 103:22, 104:2, 104:5, 104:13, 104:21, 104:24, 105:3, 105:6, 105:9, 105:13, 105:16, 105:19, 105:23, 106:5, 106:10, 106:16, 106:21, 106:25, 107:9, 107:12, 107:17, 108:5, 108:14, 108:18, 109:2, 109:10, 109:15, 109:24, 110:10, 110:13, 110:16, 110:19, 111:2, 111:5, 111:8, 111:11, 111:17, 111:22, 112:2, 112:4, 112:8, 112:14, 112:25, 113:5, 113:12, 113:16, 113:19, 113:24, 114:3, 114:6, 114:9, 114:15, 114:20, 114:23, 115:2, 115:8, 115:15, 115:18, 115:23, 116:3, 116:6, 116:8, 116:13, 116:19, 116:22, 116:25, 117:4, 117:8, 117:12, 117:16, 117:21, 118:3, 118:5, 118:8, 118:12, 118:24, 119:3, 119:9, 119:18, 120:2, 120:7, 120:11, 120:18, 120:22, 121:4, 121:8, 121:12, 121:14, 121:23, 122:4, 122:7, 122:12, 122:19, 122:23, 123:3, 123:12, 123:15, 123:21, 124:3, 124:6, 124:9, 124:15, 124:18, 124:23, 125:5, 125:8, 125:12, 125:16, 125:19, 125:24, 126:3, 126:10, 126:13, 126:17, 126:20, 127:6, 127:12, 127:16, 127:19, 127:23, 128:7, 128:17, 128:22, 129:8, 129:11, 129:25, 130:4, 130:8, 130:12, 130:19, 130:23, 131:2, 131:5, 131:13, 131:16, 131:20, 131:24, 132:2, 132:7, 132:11, 132:15, 132:19, 132:23, 133:3, 133:6, 133:12, 133:16, 133:21, 134:5, 134:10, 134:17, 134:22, 135:4, 135:6, 135:9, 135:14, 135:18, 135:21, 136:8,</p>
--	--	--	---

136:14, 136:18, 136:25, 137:5, 137:9, 137:13, 137:16, 137:20, 137:24, 138:5, 138:9, 138:16, 138:19, 139:2, 139:8, 139:12, 139:16, 139:21, 140:4, 140:8, 140:19, 140:24, 141:3, 141:6, 141:10, 141:18, 141:21, 141:25, 142:7, 142:11, 143:5, 143:12, 144:5, 144:7, 144:15, 144:20, 144:25, 145:7, 145:9, 145:12, 145:17, 145:20, 145:24, 146:7, 146:10, 146:15, 146:21, 146:25, 147:4, 148:7, 148:15, 148:18, 148:22, 149:7, 149:10, 149:21, 149:23, 150:5, 150:11, 150:16, 150:21, 150:24, 151:2, 151:10, 151:15, 151:19, 151:23, 152:2, 152:4, 152:16, 152:19, 152:23, 153:8, 153:11, 153:14, 153:18, 153:20, 153:23, 154:17, 155:4, 155:9, 155:12, 155:17, 155:24, 156:11, 156:15, 156:19, 156:21, 157:7, 157:14, 157:18, 157:22, 158:2, 158:7, 158:19, 159:3, 159:6, 159:10, 159:13, 159:17, 160:4, 160:8, 160:11, 160:15, 160:18, 161:2, 161:8, 161:13, 161:17, 161:21, 162:3, 162:21, 162:25, 163:6, 163:9, 164:2, 164:4, 164:8, 164:10, 164:13, 164:16, 164:19, 165:3, 165:5, 165:14, 165:17, 165:24, 166:5, 166:7, 166:13, 166:19, 166:22, 167:2, 167:6, 167:11, 167:14, 167:18, 167:22, 168:2, 168:19, 169:4, 169:9, 169:13, 170:2, 170:4, 170:7, 170:10, 170:13, 170:16, 171:23, 172:9, 172:15, 172:21, 173:3, 173:9, 173:15, 173:25, 174:6, 174:11, 174:14, 174:17, 174:21, 174:24, 175:5, 175:9, 175:12, 175:17, 176:4, 176:14, 177:6, 177:10, 177:23, 178:17, 178:21, 178:23, 179:4, 179:6, 179:17, 179:20, 180:2, 180:8, 180:14, 180:19, 180:24, 181:4, 181:7,	181:14, 182:3, 182:6, 182:18, 183:11, 183:15, 183:23, 183:25, 184:6, 184:13, 184:16, 184:22, 185:3, 185:7, 185:10, 185:12, 185:15, 185:18, 185:23, 186:4, 186:6, 186:11, 186:16, 186:19, 186:23, 187:4, 187:23, 188:3, 188:6, 188:10, 188:14, 188:17, 188:19, 188:23, 189:3, 189:7, 189:16, 189:24, 190:4, 190:9, 190:13, 190:21, 191:4, 191:8, 191:16, 191:25, 192:5, 192:8, 192:10, 192:13, 192:16, 192:20, 192:23, 193:3, 193:7, 193:17, 193:24, 194:5, 194:9, 194:25, 195:6, 195:9, 195:20, 195:25, 196:5, 196:8, 196:14, 196:19, 196:21, 197:3, 197:8, 197:12, 197:15, 197:22, 198:2, 198:5, 198:9, 198:11, 198:24, 199:8, 199:11, 199:19, 200:2, 200:5, 200:9, 200:25, 201:4, 201:15, 201:23, 202:9, 202:15, 202:23, 203:6, 203:10, 203:14, 203:22, 205:2, 205:5, 205:13, 205:24, 206:15, 206:20, 207:9, 207:12, 207:17, 207:19, 207:22, 208:3, 208:9, 208:14, 208:18, 208:20, 208:22, 208:25, 209:5, 209:10, 209:16, 209:20, 210:13, 210:16, 210:25, 211:5, 211:10, 211:13, 211:19, 211:24, 212:4, 212:9, 212:13, 212:19, 213:8, 213:11, 213:14, 213:16, 213:21, 213:24, 214:5, 214:17, 214:20, 214:25, 215:5, 215:7, 215:13, 215:17, 216:2, 216:6, 216:20, 216:24, 218:5, 218:12, 220:7, 220:21, 220:25, 221:8, 221:14, 221:15, 221:16, 222:3, 222:6, 222:8, 222:11, 222:16, 222:19, 223:3, 223:19, 224:5, 225:3, 225:7, 226:4, 226:8, 226:24, 227:10, 227:22, 227:24, 228:6, 228:9, 228:16, 228:19, 229:2, 229:6, 229:10, 229:14, 229:17, 229:21, 229:25, 230:5, 230:8, 230:12, 231:6,	231:12, 231:17, 231:21, 231:25, 232:2, 232:6, 232:9, 232:14, 232:20, 233:13, 233:17, 233:20, 233:23, 234:3, 234:9, 234:12, 234:15, 234:18, 234:21, 235:7, 235:10, 235:15, 235:18, 236:3, 236:9, 236:13, 236:20, 236:22, 237:21, 238:15, 238:18, 239:3, 239:7, 239:12, 239:15, 239:24, 240:3, 240:5, 240:10, 240:14, 240:20, 241:22, 242:2, 242:7, 242:20, 243:14, 243:17, 243:22, 243:23, 244:4, 244:7, 244:19, 244:21, 245:2, 245:5, 245:9, 245:14, 245:21, 246:7, 246:12, 247:4, 247:8, 247:13, 247:18, 247:21, 247:24, 248:3, 248:7, 248:25, 249:5, 249:7, 249:8, 249:14, 249:18, 249:22, 250:3, 250:7, 250:13, 250:18, 250:21, 251:10, 251:21, 252:3, 252:9, 252:15, 252:18, 252:23, 253:8, 253:21, 254:5, 254:15, 254:18, 254:21, 254:25, 255:7, 255:10, 255:13, 255:16, 256:15, 256:19, 256:22, 257:3, 257:11, 257:14, 257:20, 258:5, 258:9, 258:12, 259:6, 259:11, 259:17, 260:8, 260:13, 260:22, 260:25, 261:10, 261:14, 261:17, 261:23, 262:16, 263:5, 264:18, 264:24, 265:3, 265:9, 265:12, 265:16, 265:19, 266:5, 266:11, 266:15, 266:19, 266:22, 267:4, 267:7, 267:12, 267:16, 267:19, 267:22, 267:25, 268:4, 268:14, 268:17, 269:8, 269:11, 269:15, 269:24, 270:3, 270:14, 271:6, 271:14, 271:18, 271:21, 271:25, 272:11, 272:23, 273:19, 274:5, 274:10, 274:15, 274:18, 274:21, 275:10, 275:14, 275:16, 275:22, 276:6, 276:15, 276:25, 277:14, 277:17, 277:20, 277:24, 278:3, 278:7, 279:4, 279:7, 280:8, 280:13, 280:19, 280:21, 281:7, 281:11, 282:14, 282:17, 283:5, 283:16, 283:19,	283:22, 284:3, 284:17, 285:7, 285:10, 285:12, 286:3, 286:7, 286:10, 286:15, 286:18, 286:23, 287:2, 287:7, 287:16, 287:19, 288:4, 288:11, 288:14, 288:19, 288:25, 289:14, 289:16, 289:18, 289:22, 289:25, 290:5, 290:8, 290:13, 291:17, 291:21, 291:25, 292:10, 292:15, 292:21, 292:25, 293:5, 293:9, 293:13, 293:18, 294:3, 294:7, 294:13, 294:19, 294:25, 295:3, 295:8, 295:10, 295:13, 295:17, 295:23, 296:3, 296:11, 296:15, 296:20, 296:24, 297:3, 297:8, 297:18, 297:23, 298:5, 298:8, 298:13, 298:18, 298:21, 299:2, 299:9, 299:11, 299:14, 299:17, 299:20, 299:23, 300:13, 301:4, 301:10, 301:16, 301:21, 302:10, 302:16, 302:24, 303:4, 303:9, 303:13, 303:15, 303:19, 303:24, 304:4, 304:8, 304:15, 304:18, 304:21, 305:4, 305:10, 305:16, 305:22, 306:2, 306:4, 306:7, 306:14, 306:17, 306:21, 307:8, 307:13, 307:21, 307:25, 308:24, 309:4, 309:17, 309:20, 310:2, 310:7, 310:12, 310:20, 311:2, 311:9, 311:12, 311:18, 312:2, 312:7, 312:10, 312:19, 313:19, 314:7, 314:20, 315:6, 315:10, 315:14, 315:18, 316:5, 316:9, 316:17, 316:22, 317:3, 317:11, 317:20, 318:3, 318:19 old [4] - 29:20, 33:19, 150:22 older [1] - 30:4 OLPA [5] - 241:4, 241:6, 241:18, 241:22, 321:13 OMNI [7] - 221:19, 221:20, 221:23, 223:9, 224:2, 235:19, 321:11 on [290] - 5:3, 5:4, 5:9, 8:22, 9:2, 14:8, 25:23, 28:25, 32:23, 33:13, 33:21, 33:25, 34:4, 36:5, 37:22, 37:24, 42:13, 42:19, 42:25, 43:6, 43:9, 43:23, 45:23, 46:13,
---	---	---	--

<p>47:4, 59:12, 62:23, 64:11, 64:14, 65:3, 65:21, 67:5, 72:7, 72:12, 72:19, 74:14, 74:25, 76:12, 77:16, 77:19, 78:14, 79:9, 80:6, 81:17, 82:18, 83:15, 83:19, 83:23, 86:14, 87:20, 87:22, 88:3, 88:6, 88:18, 88:19, 88:20, 88:22, 89:15, 89:23, 89:25, 90:6, 91:12, 91:16, 94:16, 97:25, 98:3, 99:23, 102:7, 102:11, 102:14, 102:16, 102:18, 102:19, 103:8, 103:11, 103:17, 103:20, 104:11, 105:17, 105:25, 106:6, 106:18, 106:24, 111:15, 113:11, 114:17, 114:25, 115:2, 116:4, 118:17, 119:4, 120:21, 121:6, 123:7, 123:24, 124:10, 124:13, 125:14, 125:18, 125:19, 125:25, 126:7, 126:11, 126:18, 126:20, 126:25, 127:9, 127:13, 127:17, 127:21, 127:25, 128:4, 129:12, 130:9, 130:20, 133:23, 135:15, 135:16, 135:17, 139:10, 140:6, 140:11, 142:2, 142:12, 147:15, 147:20, 147:21, 147:22, 147:23, 147:24, 148:2, 148:21, 148:23, 153:6, 155:6, 156:16, 158:17, 159:15, 159:23, 165:14, 165:15, 165:23, 167:7, 167:8, 167:12, 168:7, 170:17, 170:22, 177:15, 177:17, 178:25, 181:22, 187:14, 189:25, 190:19, 191:25, 192:20, 194:15, 194:20, 194:22, 196:4, 201:11, 203:9, 205:11, 205:20, 205:25, 206:4, 207:20, 207:23, 207:25, 208:5, 209:11, 209:12, 211:15, 211:24, 211:25, 212:20, 213:5, 213:18, 216:6, 217:10, 218:20, 219:20, 220:21, 223:17, 224:24, 226:12, 226:15, 227:3, 227:13, 230:21, 233:21, 233:23, 234:3, 234:5, 235:19, 235:24, 237:5, 237:10, 237:19, 238:2, 238:6, 238:21, 240:17, 243:18, 243:24, 245:12, 249:11, 253:11, 256:25, 257:6, 257:16, 257:17, 258:21, 260:18, 261:12, 262:2, 262:12,</p>	<p>262:13, 262:16, 262:18, 262:22, 264:9, 264:19, 264:21, 268:5, 268:6, 268:9, 268:17, 268:24, 269:4, 269:5, 269:9, 269:10, 270:4, 270:20, 272:21, 274:8, 274:12, 275:23, 276:18, 277:22, 280:2, 280:5, 281:21, 282:8, 283:2, 284:14, 285:3, 285:11, 287:6, 287:8, 287:13, 287:19, 289:15, 289:18, 291:11, 291:17, 294:23, 295:6, 295:15, 297:16, 302:12, 304:2, 306:10, 307:15, 307:17, 307:20, 308:9, 308:11, 309:5, 310:6, 310:17, 310:21, 311:5, 311:7, 311:14, 311:17, 313:12, 314:21, 315:20, 316:10, 316:14, 317:3</p> <p>once ^[12] - 8:15, 81:8, 130:4, 137:2, 139:4, 156:6, 162:22, 188:2, 188:4, 192:25, 251:21, 296:20</p> <p>one ^[122] - 14:10, 14:11, 14:12, 14:13, 16:18, 20:2, 23:9, 23:10, 23:12, 25:9, 26:7, 26:16, 26:17, 27:4, 33:5, 33:19, 34:7, 36:14, 42:20, 43:2, 43:18, 45:25, 46:2, 46:12, 46:13, 46:14, 46:20, 49:6, 68:7, 68:8, 69:17, 76:17, 80:4, 82:3, 82:17, 83:19, 83:21, 84:3, 84:5, 92:15, 92:17, 92:21, 93:5, 93:8, 93:23, 93:24, 94:3, 94:23, 94:25, 95:3, 97:2, 103:14, 104:15, 105:11, 112:11, 112:17, 116:17, 133:8, 135:6, 138:2, 138:23, 143:6, 143:23, 144:6, 144:16, 147:21, 148:20, 150:17, 153:16, 156:22, 159:14, 166:3, 178:7, 184:8, 187:8, 189:12, 189:16, 190:7, 190:11, 192:21, 194:18, 194:19, 198:8, 205:18, 205:19, 206:4, 211:25, 214:15, 218:14, 223:24, 227:23, 228:24, 235:25, 241:19, 242:4, 245:12, 249:5, 269:20, 274:19, 279:11, 279:12, 282:22, 283:24, 284:2, 284:4, 284:15, 294:22, 304:13, 307:22, 312:24, 312:25, 314:21, 315:7, 316:7</p> <p>one-way ^[15] - 80:4, 83:19, 83:21, 103:14, 112:11,</p>	<p>112:17, 116:17, 138:2, 138:23, 178:7, 187:8, 194:18, 205:19, 282:22, 284:15</p> <p>ones ^[1] - 34:24</p> <p>ongoing ^[1] - 20:18</p> <p>online ^[2] - 232:24, 280:12</p> <p>only ^[31] - 21:5, 23:22, 56:16, 56:19, 66:22, 66:24, 70:3, 70:18, 75:8, 75:14, 75:22, 82:6, 83:22, 84:6, 86:13, 109:8, 123:25, 140:8, 162:10, 166:3, 171:11, 177:20, 182:15, 194:15, 194:19, 207:23, 207:25, 278:20, 279:16, 284:20, 312:17</p> <p>onto ^[10] - 39:10, 76:6, 78:5, 78:13, 104:7, 106:11, 156:7, 221:15, 235:4, 270:14</p> <p>open ^[1] - 318:8</p> <p>opened ^[1] - 165:22</p> <p>operating ^[1] - 284:13</p> <p>operation ^[1] - 36:10</p> <p>opinion ^[5] - 62:16, 112:16, 122:13, 159:5, 301:18</p> <p>opportunity ^[1] - 8:17</p> <p>opposite ^[3] - 168:24, 196:3, 231:3</p> <p>or ^[191] - 7:13, 7:17, 8:2, 8:18, 8:23, 11:9, 11:17, 12:4, 12:15, 15:10, 15:22, 18:18, 18:21, 19:22, 28:18, 28:25, 29:16, 30:3, 30:10, 30:13, 31:6, 31:9, 31:24, 33:13, 34:22, 34:23, 36:22, 37:4, 37:22, 38:4, 38:13, 39:24, 41:3, 41:9, 42:2, 43:23, 45:15, 46:5, 46:6, 49:2, 49:9, 51:24, 52:4, 53:4, 56:3, 56:23, 61:16, 61:17, 65:3, 68:17, 72:13, 74:16, 78:9, 79:19, 80:7, 80:9, 80:11, 81:4, 81:12, 81:18, 83:5, 84:8, 84:13, 84:22, 86:20, 87:18, 88:18, 89:16, 91:24, 93:16, 94:17, 95:2, 95:13, 97:14, 101:4, 102:17, 106:7, 109:16, 111:9, 113:19, 114:7, 115:10, 119:5, 119:10, 119:13, 121:11, 123:5, 123:19, 124:16, 126:4, 134:4, 135:7, 135:15, 135:16, 136:6, 136:21, 137:2, 137:8, 141:15, 146:22, 149:17, 149:24, 150:14, 151:6, 157:8, 157:19, 157:20, 157:23, 158:14, 167:14, 167:19, 168:22, 168:25, 169:10,</p>	<p>170:14, 170:18, 170:21, 172:22, 180:11, 180:20, 181:13, 186:12, 186:15, 188:2, 188:4, 188:24, 189:17, 190:7, 190:10, 192:21, 193:8, 194:2, 194:6, 196:25, 199:2, 203:9, 208:5, 208:11, 208:12, 209:22, 211:5, 211:14, 211:16, 211:21, 213:8, 219:4, 219:19, 224:21, 227:17, 232:11, 245:18, 247:5, 250:9, 251:12, 252:18, 252:20, 255:5, 255:7, 258:16, 261:11, 262:3, 262:11, 265:24, 266:24, 268:7, 269:12, 269:19, 269:24, 271:4, 271:22, 275:12, 283:25, 288:11, 295:14, 296:13, 299:16, 302:11, 302:22, 303:20, 307:3, 307:5, 308:9, 309:24, 323:16</p> <p>Order ^[1] - 2:8</p> <p>organize ^[2] - 156:3, 158:14</p> <p>original ^[3] - 4:9, 4:17, 222:22</p> <p>originally ^[1] - 154:20</p> <p>other ^[48] - 14:12, 18:12, 18:15, 22:25, 25:7, 27:7, 27:25, 28:6, 34:21, 34:22, 35:9, 37:13, 44:4, 44:8, 45:19, 47:8, 58:3, 68:17, 74:8, 74:15, 77:4, 85:6, 85:20, 92:15, 92:16, 92:20, 94:8, 96:22, 108:22, 117:12, 120:12, 120:19, 121:15, 130:14, 133:8, 150:13, 154:21, 168:2, 195:22, 203:4, 203:9, 209:21, 211:21, 213:25, 214:6, 244:2, 274:8, 318:13</p> <p>our ^[7] - 98:9, 118:22, 230:2, 230:3, 266:3, 269:4</p> <p>out ^[67] - 16:23, 43:16, 57:7, 57:12, 58:10, 58:17, 89:7, 89:18, 90:11, 95:19, 96:6, 96:21, 103:2, 103:3, 110:8, 111:7, 112:6, 112:15, 113:3, 113:7, 120:3, 120:8, 132:24, 134:7, 135:23, 139:17, 149:5, 150:18, 151:2, 152:5, 153:19, 154:20, 154:25, 157:5, 157:16, 157:20, 161:21, 168:5, 168:25, 170:13, 170:21, 178:18, 179:12, 179:21, 180:11, 180:12, 180:16, 183:22, 188:15, 190:14, 190:25, 191:6,</p>
---	---	--	--

<p>199:5, 218:24, 232:17, 246:3, 246:10, 246:13, 251:16, 251:22, 253:19, 259:13, 269:5, 284:6, 318:12, 318:14</p> <p>outcome [1] - 323:17</p> <p>outside [11] - 51:24, 51:25, 52:4, 61:12, 90:24, 91:8, 95:23, 183:8, 183:9, 295:25, 296:17</p> <p>outstanding [1] - 318:9</p> <p>outweigh [1] - 200:14</p> <p>over [24] - 6:24, 8:15, 73:11, 104:2, 115:21, 115:24, 118:20, 123:17, 137:17, 154:18, 184:24, 186:13, 186:23, 199:20, 200:19, 203:11, 203:18, 210:6, 221:13, 246:25, 254:6, 254:7, 273:21, 280:14</p> <p>overtime [2] - 206:11, 206:12</p> <p>own [5] - 118:22, 126:15, 230:3, 287:12</p> <p>owner [4] - 120:4, 120:12, 208:19, 312:18</p>	<p>Panek [3] - 2:10, 5:12, 5:22</p> <p>PANEK [1] - 3:4</p> <p>panel [1] - 262:19</p> <p>paper [3] - 59:12, 237:3, 254:9</p> <p>paperwork [17] - 23:25, 24:3, 24:4, 24:23, 26:12, 26:13, 49:22, 49:25, 58:15, 58:19, 78:24, 137:18, 180:15, 186:25, 209:22, 210:4, 280:14</p> <p>paragraph [5] - 274:19, 274:23, 275:4, 275:17, 284:10</p> <p>parallel [3] - 304:16, 304:17, 305:23</p> <p>park [3] - 112:2, 149:4, 187:12</p> <p>parked [33] - 87:15, 87:19, 102:21, 104:20, 110:8, 111:9, 111:25, 119:22, 119:24, 138:3, 138:25, 143:16, 147:22, 149:25, 151:3, 153:6, 153:12, 154:15, 178:14, 205:21, 208:21, 208:22, 213:18, 215:21, 215:22, 226:18, 238:9, 261:7, 261:24, 305:3, 305:9</p> <p>parking [3] - 83:23, 102:20, 103:17</p> <p>part [15] - 40:12, 152:23, 198:7, 204:25, 217:25, 218:2, 223:16, 226:25, 235:5, 239:18, 243:20, 252:8, 258:22, 262:19, 270:25</p> <p>partial [1] - 243:19</p> <p>Partially [1] - 310:22</p> <p>parties [7] - 4:7, 5:20, 150:14, 218:25, 219:18, 219:21, 323:15</p> <p>partner [20] - 38:20, 38:22, 40:10, 50:14, 53:8, 79:9, 79:11, 81:7, 90:24, 101:23, 157:5, 157:14, 157:18, 157:23, 158:3, 161:19, 168:18, 229:3, 296:6, 303:11</p> <p>partners [4] - 38:24, 40:16, 41:5, 41:7</p> <p>party [2] - 219:3, 219:4</p> <p>pass [2] - 46:22, 187:8</p> <p>passed [9] - 91:12, 97:5, 98:5, 99:4, 180:21, 194:11, 213:20, 282:23, 310:18</p> <p>passenger [6] - 80:12, 103:2, 141:22, 153:10, 268:18, 270:10</p> <p>passenger's [1] - 268:6</p> <p>passengers [1] - 269:16</p>	<p>passing [1] - 87:22</p> <p>Patrol [1] - 321:8</p> <p>patrol [20] - 38:7, 38:10, 38:14, 39:7, 66:7, 66:10, 67:20, 67:21, 67:24, 68:5, 68:6, 68:14, 68:15, 68:21, 70:2, 75:21, 76:5, 79:18, 199:14, 199:21</p> <p>pay [1] - 223:12</p> <p>pedestrian [7] - 14:16, 19:14, 33:12, 33:22, 44:13, 45:3, 297:20</p> <p>Pedigree [1] - 321:14</p> <p>pedigree [7] - 134:7, 135:23, 136:2, 242:23, 242:25, 243:8, 246:2</p> <p>pending [5] - 8:5, 14:18, 14:23, 318:8, 318:10</p> <p>people [17] - 41:2, 43:16, 176:6, 190:6, 190:17, 190:18, 201:10, 201:11, 203:9, 230:20, 230:25, 231:15, 310:17, 311:6, 311:14, 314:16, 314:18</p> <p>percent [8] - 121:13, 192:22, 265:22, 266:4, 266:10, 268:12, 313:22, 313:25</p> <p>perfect [1] - 118:21</p> <p>perfectly [1] - 210:12</p> <p>permission [1] - 183:12</p> <p>perp [1] - 239:20</p> <p>perpetrator [2] - 63:6, 239:8</p> <p>person [40] - 15:13, 15:16, 15:21, 16:19, 16:23, 20:23, 27:15, 43:18, 46:23, 46:25, 62:18, 64:12, 65:2, 65:20, 74:22, 82:17, 85:16, 85:19, 86:16, 91:6, 91:14, 94:7, 94:13, 95:6, 121:20, 123:6, 125:3, 164:14, 169:21, 180:5, 190:23, 190:24, 207:23, 208:18, 228:12, 266:24, 269:13, 271:4, 271:10, 312:17</p> <p>person's [1] - 86:18</p> <p>personal [8] - 61:9, 78:7, 127:18, 148:21, 159:5, 182:12, 182:14, 224:25</p> <p>personally [1] - 276:9</p> <p>persons [1] - 91:11</p> <p>pertains [1] - 71:5</p> <p>pertinent [2] - 74:9, 74:10</p> <p>perusing [3] - 68:12, 216:17, 222:6</p> <p>phase [1] - 194:13</p> <p>phone [6] - 50:6, 225:4, 225:5, 291:18, 292:9, 292:13</p> <p>phones [1] - 101:5</p>	<p>phonetic [2] - 48:16, 123:24</p> <p>phonetic [5] - 18:11, 79:16, 134:21, 176:20, 287:18</p> <p>Photo [1] - 322:10</p> <p>photograph [1] - 265:21</p> <p>photographed [1] - 257:5</p> <p>photographs [5] - 256:3, 256:7, 259:20, 259:24, 263:7</p> <p>Photos [3] - 321:16, 321:17, 321:18</p> <p>physical [7] - 234:19, 235:6, 239:9, 239:19, 239:20, 247:19, 259:7</p> <p>physically [2] - 51:21, 223:25</p> <p>pick [6] - 50:6, 182:14, 182:16, 182:23, 184:4, 219:4</p> <p>picked [1] - 290:23</p> <p>picking [2] - 292:8, 292:13</p> <p>picture [16] - 142:25, 212:16, 213:20, 218:13, 257:6, 260:9, 262:8, 262:24, 262:25, 264:19, 266:12, 268:2, 270:2, 271:10, 314:23, 316:20</p> <p>pictured [1] - 265:20</p> <p>pictures [16] - 124:16, 256:16, 256:17, 257:16, 260:23, 261:2, 263:18, 263:21, 264:12, 264:16, 265:4, 265:6, 265:13, 265:14, 270:9, 270:18</p> <p>Pine [3] - 2:10, 3:5, 5:12</p> <p>place [7] - 57:12, 68:8, 188:20, 215:18, 217:11, 284:12, 320:11</p> <p>placed [1] - 42:13</p> <p>plainclothes [2] - 16:13, 81:18</p> <p>Plaintiff [11] - 2:7, 3:4, 5:9, 5:16, 5:22, 6:21, 15:13, 163:10, 201:10, 201:15, 256:4</p> <p>PLAINTIFF [1] - 1:4</p> <p>PLAINTIFF'S [1] - 321:4</p> <p>Plaintiff's [42] - 67:19, 67:25, 199:13, 204:11, 204:15, 206:23, 207:3, 221:18, 221:24, 232:23, 233:4, 233:10, 237:22, 240:22, 241:3, 241:6, 241:14, 242:22, 243:2, 248:9, 248:12, 248:17, 255:21, 256:2, 256:8, 259:19, 259:25, 263:17, 263:21, 273:4, 273:9, 277:3, 277:7, 278:9, 278:13, 283:7, 283:9, 283:13, 285:19,</p>
---	--	---	---

<p>285:23, 286:4, 318:6 plan [9] - 155:17, 155:21, 155:25, 156:5, 156:8, 157:2, 158:8, 158:13, 158:14 plate [4] - 260:18, 288:18, 288:19, 289:3 play [6] - 299:12, 299:18, 310:13, 313:5, 313:23 played [2] - 299:22, 313:13 playing [3] - 305:6, 305:7, 314:16 Plaza [2] - 6:17, 43:12 please [5] - 5:19, 6:6, 241:13, 282:25, 290:16 Please [1] - 6:13 plus [2] - 178:15, 262:18 PMD [1] - 205:12 PO [1] - 205:16 point [76] - 7:10, 7:24, 27:7, 39:10, 62:2, 82:18, 88:8, 99:4, 101:15, 103:11, 106:6, 108:6, 108:15, 111:11, 112:9, 112:12, 112:14, 114:3, 119:19, 120:11, 121:25, 127:6, 128:21, 130:10, 135:10, 135:14, 135:19, 137:3, 138:7, 142:18, 148:13, 156:8, 156:21, 157:2, 157:15, 159:18, 159:22, 159:25, 160:20, 161:19, 164:5, 164:21, 165:18, 166:14, 167:7, 169:11, 174:18, 174:22, 174:24, 180:10, 180:11, 180:25, 182:15, 185:18, 185:24, 190:2, 194:5, 195:14, 195:19, 196:24, 201:9, 212:8, 246:3, 246:14, 290:6, 294:20, 302:16, 303:16, 303:21, 303:24, 304:2, 307:6, 307:21, 308:13, 308:20, 309:5 points [1] - 300:11 police [27] - 11:4, 28:2, 29:4, 29:8, 29:11, 29:15, 29:22, 29:25, 30:5, 36:8, 43:2, 46:21, 62:16, 62:19, 63:4, 63:8, 63:24, 68:17, 70:19, 101:20, 112:10, 112:21, 151:23, 206:24, 211:21, 252:13, 265:24 Police [6] - 1:8, 1:9, 3:10, 3:11, 6:17, 43:12 policies [1] - 62:23 policy [3] - 73:3, 73:8, 200:11 population [1] - 71:25 Port [3] - 35:13, 35:14, 35:17</p>	<p>portion [1] - 249:12 position [4] - 118:21, 144:9, 318:7 positioned [1] - 92:16 positive [2] - 185:17, 190:25 possessed [1] - 183:21 possession [6] - 127:20, 165:18, 185:21, 206:6, 210:23, 238:13 possible [13] - 63:14, 138:10, 139:9, 143:13, 144:14, 163:2, 172:9, 173:8, 202:14, 202:16, 209:15, 258:8, 258:10 possibly [2] - 139:24, 235:25 post [5] - 42:25, 43:3, 43:6, 43:11, 43:23 precinct [84] - 17:25, 37:14, 46:22, 47:3, 52:6, 53:18, 58:13, 114:22, 114:24, 115:3, 115:22, 123:18, 125:6, 128:12, 128:14, 128:19, 130:18, 131:25, 132:3, 132:8, 132:20, 133:14, 134:3, 134:6, 134:14, 138:13, 145:4, 145:10, 162:23, 163:17, 163:20, 164:11, 165:8, 170:14, 170:21, 173:13, 173:16, 174:2, 175:6, 178:24, 179:8, 180:6, 180:22, 183:6, 186:8, 186:12, 187:16, 188:12, 191:9, 191:11, 192:3, 206:16, 208:5, 208:7, 208:10, 208:11, 211:2, 211:16, 216:10, 216:22, 217:5, 225:22, 234:2, 239:2, 240:15, 246:8, 249:25, 251:3, 251:6, 255:11, 255:14, 257:22, 257:23, 258:17, 276:14, 278:5, 280:10, 289:21, 290:4, 290:18, 290:25, 292:23, 293:4, 296:13 Precinct [6] - 11:6, 18:4, 36:11, 76:18, 205:12, 300:21 prefer [1] - 79:2 prepare [5] - 21:14, 21:21, 22:8, 23:2, 278:4 prepared [1] - 277:19 preparing [1] - 225:8 prescribed [1] - 12:8 prescription [2] - 11:12, 12:15 present [4] - 5:25, 37:11, 78:15, 205:11 PRESENT [1] - 3:18</p>	<p>presented [3] - 134:18, 165:9, 247:10 presenting [1] - 134:23 presently [2] - 1:12, 3:14 pretty [5] - 107:23, 108:3, 139:14, 169:16, 266:8 previous [1] - 289:7 previously [1] - 26:3 primary [1] - 244:2 prior [1] - 140:21 prison [1] - 243:9 prisoner [16] - 242:23, 243:5, 243:7, 248:15, 248:16, 248:20, 251:16, 251:17, 252:25, 253:4, 253:14, 254:7, 254:13, 254:19, 254:22, 254:23 probably [2] - 165:15, 254:10 problem [1] - 315:14 proc [1] - 26:17 Procedure [1] - 2:9 procedure [6] - 17:10, 19:21, 55:11, 167:3, 182:19, 230:2 proceed [1] - 20:10 proceeding [4] - 49:15, 49:17, 49:19, 56:25 process [11] - 125:7, 128:19, 137:13, 160:5, 174:3, 174:4, 174:15, 183:8, 186:18, 246:4, 293:23 processed [1] - 173:12 processing [2] - 183:9, 191:9 production [1] - 263:7 programs [1] - 34:22 promotion [1] - 39:23 pronounced [1] - 10:21 property [8] - 134:9, 182:12, 182:14, 182:16, 182:23, 182:24, 209:21, 215:22 prosecution [2] - 57:4, 192:18 provide [1] - 73:24 provider [1] - 252:19 proximity [1] - 65:20 PUBLIC [1] - 320:22 public [2] - 73:11, 200:13 Public [3] - 2:12, 6:9, 323:7 pull [7] - 89:2, 109:3, 111:18, 158:4, 159:18, 160:2, 201:25 pulled [3] - 89:4, 109:10, 200:5 pulling [2] - 231:17, 300:24 pursing [1] - 75:14 pursuant [1] - 2:7 pursue [16] - 63:23, 64:12,</p>	<p>64:13, 66:23, 67:3, 67:8, 72:15, 72:21, 89:25, 90:5, 90:8, 144:9, 144:17, 201:24, 202:8, 202:9 pursued [3] - 75:8, 104:15, 191:20 pursues [1] - 70:19 pursuing [29] - 63:22, 64:9, 65:2, 65:21, 70:3, 71:5, 72:12, 74:13, 75:15, 89:19, 100:4, 104:22, 105:21, 105:25, 106:5, 106:17, 107:13, 107:19, 108:23, 111:14, 139:10, 143:23, 144:7, 156:7, 157:10, 159:22, 202:17, 203:15, 204:7 pursuit [25] - 63:5, 69:10, 69:14, 69:25, 71:19, 72:6, 73:9, 73:18, 73:24, 74:13, 74:15, 74:19, 74:21, 75:2, 75:22, 110:18, 111:18, 199:22, 200:11, 200:17, 200:24, 201:5, 203:12, 304:5, 317:12 pursuits [5] - 62:24, 66:8, 66:12, 66:19, 68:16 put [14] - 43:15, 78:5, 88:3, 88:6, 113:10, 118:18, 154:25, 165:22, 217:10, 218:20, 219:18, 219:20, 219:22, 220:5</p>
Q			
<p>quality [4] - 314:5, 314:24, 315:9, 316:8 quarter [1] - 268:22 queens [1] - 149:15 Queens [8] - 28:24, 33:8, 33:9, 83:11, 83:12, 146:25, 149:14, 183:2 ques [1] - 162:8 question [33] - 7:7, 7:17, 7:22, 8:5, 8:6, 13:4, 14:25, 19:19, 21:20, 63:20, 65:18, 136:6, 162:10, 168:16, 180:10, 189:20, 198:23, 201:19, 210:11, 210:12, 223:4, 244:10, 260:20, 265:12, 271:25, 281:24, 282:2, 282:6, 286:23, 291:23, 317:10, 317:12 questions [14] - 6:23, 7:5, 7:11, 8:10, 8:23, 68:11, 117:2, 129:22, 130:2, 136:4, 168:15, 240:7, 272:24, 300:11 quick [2] - 26:2, 264:2</p>			

R			
<p>R [5] - 3:2, 4:2, 41:25, 320:2, 323:2</p> <p>radio [8] - 23:25, 38:15, 73:23, 104:3, 115:24, 203:11, 203:14, 203:18</p> <p>raised [1] - 92:11</p> <p>ran [14] - 29:20, 32:20, 32:21, 64:14, 87:9, 87:12, 108:8, 149:4, 150:18, 151:2, 151:5, 153:3, 153:20, 195:17</p> <p>rank [1] - 11:3</p> <p>re [1] - 279:21</p> <p>re-stamp [1] - 279:21</p> <p>reaction [1] - 171:25</p> <p>read [26] - 58:19, 71:17, 71:21, 73:6, 73:20, 74:2, 197:24, 198:2, 205:8, 205:14, 205:25, 215:17, 226:8, 237:23, 252:9, 280:25, 281:23, 282:2, 282:17, 284:10, 287:8, 288:5, 288:9, 289:19, 290:14, 290:19</p> <p>reading [1] - 12:4</p> <p>ready [26] - 137:18, 199:17, 199:18, 204:20, 204:21, 207:7, 222:5, 222:7, 233:11, 233:12, 241:15, 241:16, 243:12, 243:13, 248:23, 248:24, 256:13, 256:14, 260:6, 264:13, 273:14, 277:12, 277:13, 278:17, 283:14, 286:5</p> <p>real [1] - 264:2</p> <p>realize [4] - 194:13, 194:21, 195:12, 196:11</p> <p>realized [2] - 195:10, 196:15</p> <p>really [15] - 11:23, 47:17, 65:10, 66:9, 75:22, 86:13, 197:16, 199:7, 199:9, 213:22, 217:3, 245:4, 278:24, 279:16, 308:13</p> <p>rearview [1] - 19:22</p> <p>reason [6] - 10:12, 42:17, 163:9, 214:5, 219:18, 276:14</p> <p>reasons [1] - 78:7</p> <p>recall [3] - 291:4, 303:20, 307:3</p> <p>receipt [1] - 182:17</p> <p>received [5] - 33:24, 34:22, 57:15, 58:15, 295:22</p> <p>reception [1] - 291:7</p> <p>recess [2] - 147:13, 297:14</p> <p>reckless [1] - 283:3</p> <p>recollection [4] - 46:19, 66:17, 264:20, 297:25</p> <p>record [33] - 5:3, 6:14,</p>	<p>25:20, 25:21, 25:24, 65:25, 147:12, 147:16, 147:20, 181:16, 181:19, 181:20, 181:23, 237:14, 237:16, 237:17, 237:20, 264:6, 264:7, 264:10, 281:16, 281:18, 281:19, 281:22, 297:9, 297:11, 297:12, 297:17, 317:21, 317:24, 317:25, 318:23, 323:12</p> <p>recover [1] - 164:16</p> <p>red [31] - 64:14, 80:4, 99:6, 99:15, 112:13, 112:19, 116:17, 138:3, 148:10, 148:14, 148:17, 178:7, 178:12, 187:9, 194:12, 195:15, 195:17, 195:18, 195:24, 196:22, 196:25, 198:7, 205:20, 206:3, 226:13, 238:4, 282:23, 284:6, 284:16, 285:3, 285:8</p> <p>redness [1] - 168:3</p> <p>reenacting [1] - 272:7</p> <p>refer [1] - 225:11</p> <p>referred [1] - 281:25</p> <p>referring [2] - 239:17, 261:18</p> <p>refresh [5] - 24:6, 49:22, 264:20, 284:20, 297:24</p> <p>refreshed [2] - 23:23, 24:21</p> <p>refuse [4] - 247:3, 254:19, 254:22, 310:9</p> <p>refused [8] - 205:20, 226:21, 238:11, 253:5, 254:7, 255:5, 255:8, 281:6</p> <p>refusing [1] - 247:14</p> <p>regardless [1] - 136:21</p> <p>registration [1] - 74:6</p> <p>registration [3] - 74:7, 210:24, 211:11</p> <p>regular [1] - 81:7</p> <p>related [1] - 323:15</p> <p>released [1] - 184:3</p> <p>relieved [1] - 296:22</p> <p>remarks [1] - 252:6</p> <p>remember [186] - 12:17, 15:15, 15:25, 16:6, 18:2, 20:12, 24:22, 26:11, 27:8, 27:20, 27:22, 28:22, 29:13, 30:23, 33:17, 35:18, 41:15, 42:6, 42:20, 42:22, 43:22, 44:10, 45:20, 45:25, 46:3, 47:10, 49:21, 49:23, 50:4, 51:3, 52:10, 53:3, 66:25, 75:7, 75:19, 82:15, 85:7, 85:22, 86:5, 86:19, 95:16, 98:21, 100:23, 100:24, 101:16, 104:4, 104:11, 105:22, 107:16, 108:17, 108:18, 108:21, 111:21,</p>	<p>113:14, 113:16, 113:23, 113:24, 116:2, 116:24, 117:3, 117:7, 117:15, 117:24, 119:2, 119:3, 119:8, 120:20, 121:3, 122:22, 123:2, 123:25, 124:17, 124:21, 125:15, 125:23, 127:5, 127:10, 127:15, 127:22, 128:2, 128:5, 128:15, 128:21, 128:23, 129:7, 129:21, 130:3, 130:11, 132:17, 132:21, 133:5, 133:20, 133:24, 134:24, 135:8, 135:13, 136:5, 136:7, 136:11, 136:13, 136:15, 137:7, 137:12, 138:8, 139:6, 141:8, 141:20, 141:24, 145:15, 148:20, 149:9, 149:18, 151:13, 151:18, 155:11, 155:16, 157:17, 157:25, 160:23, 161:6, 162:2, 162:11, 162:19, 162:21, 163:19, 166:2, 166:4, 166:12, 166:25, 167:13, 169:12, 170:15, 170:19, 171:11, 171:13, 173:7, 175:16, 178:3, 178:4, 179:2, 179:5, 179:9, 180:9, 180:20, 181:11, 181:13, 184:19, 186:14, 188:5, 188:9, 192:7, 192:9, 197:16, 203:13, 203:24, 208:8, 208:13, 209:9, 209:15, 210:23, 211:4, 211:18, 226:2, 229:13, 246:24, 250:3, 250:10, 250:11, 250:21, 251:2, 257:13, 258:3, 260:16, 261:15, 267:24, 268:8, 271:5, 284:17, 295:13, 296:14, 309:9, 311:23, 312:11, 313:3, 316:12, 316:16</p> <p>remembering [1] - 150:4</p> <p>remove [4] - 126:3, 126:6, 127:24, 215:23</p> <p>removed [12] - 78:4, 127:7, 127:11, 127:13, 135:24, 136:8, 137:19, 198:7, 215:24, 216:8, 217:13, 218:2</p> <p>repeat [1] - 282:5</p> <p>replied [1] - 290:23</p> <p>reply [1] - 290:21</p> <p>report [43] - 17:5, 17:7, 17:23, 24:8, 24:14, 29:25, 120:21, 191:6, 206:24, 207:2, 209:11, 211:15, 216:12, 216:16, 217:9, 217:18, 218:20, 218:25, 219:3, 219:9, 219:16,</p>	<p>219:17, 219:24, 221:6, 221:21, 221:23, 222:17, 222:21, 222:25, 223:9, 223:14, 223:21, 224:3, 225:8, 225:14, 233:24, 235:19, 235:21, 238:22, 261:13, 261:19, 262:14, 321:10</p> <p>REPORTER [6] - 216:13, 233:7, 241:12, 243:5, 243:9, 255:22</p> <p>Reporter [17] - 68:3, 204:17, 207:5, 222:2, 233:6, 241:8, 243:4, 248:14, 256:10, 260:3, 263:23, 273:11, 277:9, 278:15, 282:3, 283:11, 285:25</p> <p>reporter [3] - 6:4, 7:5, 7:12</p> <p>Reporting [2] - 5:6, 6:5</p> <p>represent [7] - 5:20, 6:20, 177:4, 249:2, 256:22, 261:24, 298:5</p> <p>request [13] - 58:17, 78:11, 245:22, 246:23, 250:17, 250:18, 250:20, 251:8, 252:25, 253:8, 253:15, 254:2, 254:3</p> <p>requested [5] - 79:3, 245:15, 251:3, 251:7, 251:11</p> <p>REQUESTED [1] - 322:8</p> <p>require [6] - 17:13, 17:19, 17:21, 122:17, 253:9, 253:25</p> <p>required [6] - 136:22, 136:23, 217:19, 246:20, 251:15, 254:13</p> <p>requires [5] - 73:4, 73:8, 200:11, 252:25, 253:15</p> <p>RER [1] - 1:7</p> <p>reserved [1] - 4:22</p> <p>resisting [12] - 206:2, 228:7, 228:11, 229:9, 230:9, 235:2, 279:12, 279:17, 280:23, 281:10, 282:11, 308:22</p> <p>respective [1] - 4:6</p> <p>respond [3] - 51:2, 51:12, 51:14</p> <p>responding [1] - 291:25</p> <p>responsibilities [1] - 38:14</p> <p>responsibility [2] - 258:21, 258:25</p> <p>rest [2] - 115:21, 287:8</p> <p>restrain [2] - 235:6, 235:9</p> <p>result [8] - 57:3, 140:17, 140:18, 188:15, 191:2, 206:12, 298:15, 299:4</p> <p>resulted [1] - 31:13</p> <p>results [2] - 57:14, 185:16</p> <p>retained [1] - 321:23</p> <p>return [2] - 183:2, 186:7</p>

<p>returned [2] - 244:6, 276:7</p> <p>reverse [1] - 297:21</p> <p>review [14] - 8:17, 22:19, 22:22, 23:18, 23:21, 24:4, 24:24, 26:15, 95:25, 193:10, 193:22, 197:22, 207:16, 222:14</p> <p>reviewed [3] - 24:18, 26:12, 300:5</p> <p>revised [1] - 68:7</p> <p>riding [5] - 133:9, 226:11, 238:2, 264:21, 274:11</p> <p>right [208] - 11:22, 17:2, 20:5, 25:10, 28:19, 39:3, 39:11, 41:6, 41:18, 50:2, 51:3, 51:18, 54:25, 57:24, 59:13, 59:16, 59:17, 62:14, 69:16, 73:2, 75:24, 78:16, 84:9, 85:19, 86:17, 90:11, 90:22, 92:15, 94:15, 94:17, 95:10, 97:25, 98:3, 98:7, 98:13, 98:15, 100:9, 102:7, 102:12, 102:17, 102:21, 103:8, 103:9, 105:11, 105:14, 106:11, 108:10, 112:3, 115:16, 117:19, 120:8, 120:9, 122:5, 128:25, 129:11, 129:17, 131:3, 140:16, 140:24, 141:2, 142:16, 143:3, 143:9, 143:18, 147:23, 147:25, 148:2, 148:5, 148:8, 148:19, 150:10, 151:9, 153:7, 153:21, 154:9, 154:14, 155:2, 155:5, 155:6, 156:17, 159:23, 161:4, 161:15, 165:13, 167:16, 167:17, 167:19, 167:20, 168:23, 174:19, 176:22, 176:25, 177:8, 178:5, 178:9, 179:19, 180:17, 183:8, 183:9, 183:18, 184:10, 184:23, 186:8, 188:9, 190:2, 190:16, 190:17, 194:17, 195:23, 198:15, 201:18, 201:21, 201:22, 202:8, 209:3, 211:11, 212:18, 213:19, 213:25, 214:3, 214:24, 216:21, 217:4, 217:14, 218:22, 219:12, 219:23, 219:25, 220:4, 220:17, 221:13, 223:2, 223:10, 226:19, 227:6, 227:8, 228:5, 235:12, 235:17, 235:21, 236:11, 236:12, 236:14, 240:18, 250:9, 252:13, 252:14, 252:24, 253:6, 253:19, 253:20, 254:12, 257:6, 259:5, 261:22, 262:20, 266:25, 268:13,</p>	<p>268:18, 274:23, 275:7, 275:12, 276:25, 279:17, 279:22, 282:12, 284:21, 286:20, 287:7, 289:23, 291:21, 293:20, 293:25, 295:22, 296:2, 298:10, 299:17, 300:17, 301:5, 301:10, 302:25, 303:6, 304:14, 304:19, 304:20, 304:23, 305:2, 305:19, 305:25, 306:11, 306:13, 306:18, 307:11, 307:20, 307:23, 308:15, 311:6, 311:7, 311:8, 311:11, 313:4, 313:12, 314:14, 314:21, 315:25</p> <p>Right [1] - 142:17</p> <p>right-hand [17] - 102:7, 147:23, 147:25, 148:2, 148:5, 151:9, 153:7, 154:14, 155:6, 190:16, 190:17, 213:19, 300:17, 307:20, 307:23, 311:7</p> <p>risk [2] - 73:16, 200:12</p> <p>risks [2] - 73:10</p> <p>RMA [1] - 247:2</p> <p>RMP [4] - 14:15, 26:24, 38:16, 40:18</p> <p>road [7] - 88:18, 88:20, 88:22, 88:25, 150:8, 150:9, 300:13</p> <p>Robert [4] - 3:19, 5:5, 297:24, 298:3</p> <p>Rodrig [1] - 170:5</p> <p>Rodriguez [153] - 5:16, 5:23, 6:21, 47:22, 48:13, 49:18, 56:21, 57:4, 58:21, 72:6, 74:13, 74:25, 75:14, 75:24, 76:12, 77:6, 81:22, 82:4, 82:6, 82:14, 82:16, 93:17, 93:20, 98:22, 101:2, 101:14, 101:18, 101:25, 103:7, 106:2, 106:12, 106:17, 107:12, 107:18, 111:24, 114:4, 114:10, 114:16, 115:10, 115:25, 116:11, 117:5, 118:13, 118:16, 120:9, 120:15, 121:24, 122:20, 122:24, 123:16, 124:19, 124:24, 125:9, 127:25, 128:8, 129:3, 130:9, 131:22, 133:10, 133:25, 134:11, 135:7, 135:10, 135:19, 136:3, 137:10, 138:11, 140:17, 146:2, 154:8, 154:21, 157:24, 160:16, 161:23, 162:15, 164:5, 166:20, 167:7, 168:7, 173:4, 173:5, 173:10, 173:15, 177:8,</p>	<p>177:17, 178:19, 178:25, 180:15, 181:8, 182:9, 183:12, 185:20, 186:7, 186:21, 191:21, 194:21, 196:12, 199:22, 200:17, 203:2, 203:15, 204:7, 205:15, 205:22, 206:16, 208:11, 208:23, 213:9, 218:23, 219:13, 220:8, 225:23, 228:20, 236:4, 239:25, 240:12, 242:10, 244:22, 245:21, 246:14, 246:19, 246:22, 247:14, 252:2, 254:16, 255:8, 255:11, 256:23, 259:7, 259:21, 260:14, 261:25, 264:21, 270:8, 271:3, 274:11, 275:24, 282:11, 284:13, 288:23, 298:14, 301:2, 302:5, 302:25, 303:22, 304:6, 306:15, 307:5, 311:19, 313:2, 315:2, 317:5, 317:14</p> <p>rodriguez [10] - 75:7, 134:13, 158:5, 166:9, 171:8, 227:12, 242:5, 262:10, 281:12, 308:21</p> <p>RODRIGUEZ [2] - 1:3, 3:5</p> <p>Rodriguez' [18] - 107:10, 139:24, 142:13, 174:4, 182:4, 188:24, 191:9, 192:18, 196:24, 198:20, 244:11, 269:12, 271:11, 290:6, 301:13, 301:19, 306:8, 318:11</p> <p>rodriguez' [2] - 188:8, 261:6</p> <p>rodriguez' [1] - 266:24</p> <p>rolling [1] - 66:3</p> <p>room [7] - 22:12, 22:17, 23:16, 166:11, 166:14, 166:15, 183:10</p> <p>rotating [1] - 39:2</p> <p>rule [1] - 89:17</p> <p>rules [3] - 6:24, 54:20, 75:23</p> <p>Rules [1] - 2:8</p> <p>run [19] - 87:25, 97:20, 97:21, 101:24, 112:19, 116:16, 116:17, 116:18, 137:25, 138:22, 139:17, 148:10, 153:16, 162:10, 178:7, 202:7, 288:9, 288:17, 289:2</p> <p>runned [1] - 179:16</p> <p>running [16] - 33:4, 91:7, 99:24, 101:18, 143:20, 144:6, 144:8, 148:17, 178:12, 226:16, 226:17, 238:8, 252:12, 285:2, 285:8,</p>	<p>310:24</p> <p>runs [1] - 38:15</p>
S			
<p>S [6] - 1:10, 3:2, 3:12, 4:2, 321:2</p> <p>safe [12] - 109:21, 109:22, 144:17, 144:20, 200:3, 200:7, 202:13, 202:14, 202:16, 202:17, 304:5</p> <p>safekeeping [2] - 182:15, 183:24</p> <p>safely [6] - 63:11, 63:13, 63:14, 63:17, 63:24, 184:4</p> <p>safest [1] - 144:14</p> <p>safety [20] - 11:8, 39:15, 39:23, 40:6, 40:11, 40:23, 41:14, 41:17, 46:10, 77:12, 78:3, 78:6, 78:14, 78:19, 118:22, 118:23, 126:15, 126:16, 230:4</p> <p>said [95] - 17:3, 18:6, 24:25, 26:3, 27:10, 33:7, 41:4, 46:16, 51:12, 52:22, 54:22, 54:24, 56:2, 67:10, 82:22, 82:25, 84:7, 94:3, 94:22, 95:22, 97:18, 102:4, 105:16, 109:25, 113:15, 113:17, 115:16, 117:19, 119:19, 121:17, 130:5, 139:3, 143:16, 144:13, 145:2, 145:4, 145:5, 146:5, 147:19, 147:24, 149:16, 149:23, 154:8, 154:14, 154:19, 156:15, 156:22, 161:18, 162:2, 162:9, 162:12, 162:14, 162:15, 163:10, 166:12, 174:18, 178:3, 179:15, 184:13, 185:23, 185:24, 186:3, 186:4, 186:5, 186:7, 202:13, 213:10, 218:3, 219:21, 235:22, 250:8, 250:22, 261:5, 261:20, 263:2, 283:23, 290:3, 290:22, 290:24, 291:2, 291:4, 292:22, 298:9, 300:4, 303:16, 303:21, 314:14, 314:15, 314:18, 316:18, 318:4</p> <p>same [35] - 4:12, 4:15, 4:17, 10:8, 12:10, 16:3, 24:5, 24:19, 26:13, 35:20, 64:13, 68:6, 68:9, 72:21, 88:14, 97:5, 97:9, 127:3, 132:6, 138:21, 141:14, 167:9, 180:4, 180:6, 185:13, 224:16, 235:25, 249:2, 271:25, 272:11, 289:9, 299:13, 299:19, 299:24, 300:7</p>			

<p>save [1] - 296:9</p> <p>saw [35] - 24:2, 26:5, 26:7, 91:11, 97:4, 101:25, 107:22, 107:24, 108:3, 108:9, 108:11, 108:19, 108:22, 109:25, 110:3, 110:11, 111:23, 114:16, 115:2, 123:5, 125:16, 131:25, 132:2, 132:19, 139:7, 139:13, 160:25, 168:2, 179:13, 179:14, 186:7, 195:18, 234:25, 256:24, 257:20</p> <p>say [108] - 7:13, 8:13, 12:24, 38:8, 49:8, 49:20, 50:10, 50:24, 51:2, 53:6, 53:10, 60:18, 63:21, 64:9, 67:7, 68:9, 69:8, 75:11, 85:12, 88:5, 88:16, 88:21, 92:25, 96:21, 97:21, 100:11, 100:22, 104:6, 110:10, 113:12, 113:20, 114:6, 116:14, 120:24, 121:2, 126:5, 126:7, 129:17, 143:15, 144:25, 145:12, 145:21, 145:24, 146:2, 146:7, 148:9, 151:5, 152:19, 154:13, 155:10, 157:19, 158:14, 158:16, 158:22, 159:13, 159:20, 161:5, 161:14, 161:24, 163:23, 166:13, 169:24, 171:16, 172:5, 173:10, 175:12, 184:20, 187:5, 192:8, 200:22, 202:15, 205:9, 209:23, 210:2, 211:17, 213:9, 216:7, 217:23, 219:21, 220:13, 220:19, 222:17, 224:18, 227:25, 262:5, 272:18, 275:12, 286:20, 289:20, 289:21, 290:17, 293:10, 293:23, 295:4, 296:3, 296:7, 301:12, 303:2, 305:14, 305:18, 305:19, 305:20, 306:12, 308:4, 309:8, 312:7, 315:21</p> <p>saying [39] - 13:21, 14:5, 67:16, 108:10, 122:18, 154:10, 162:19, 162:22, 167:20, 169:4, 171:25, 180:24, 183:3, 201:19, 217:2, 217:16, 217:20, 219:2, 219:4, 222:24, 227:2, 229:13, 229:15, 235:10, 236:16, 237:3, 238:23, 239:21, 262:14, 281:12, 282:9, 290:2, 290:9, 291:2, 292:12, 298:23, 298:24, 305:4, 312:11</p> <p>says [43] - 49:23, 69:17,</p>	<p>69:20, 71:16, 73:3, 211:25, 213:12, 214:14, 214:25, 215:2, 215:14, 218:23, 219:13, 223:10, 223:14, 223:20, 223:21, 226:6, 227:9, 232:4, 232:6, 232:7, 232:15, 234:5, 234:10, 234:19, 235:6, 240:6, 242:13, 244:22, 245:6, 245:15, 245:22, 247:2, 247:19, 252:24, 254:7, 254:8, 286:19, 288:9, 289:19</p> <p>scene [63] - 17:16, 21:11, 26:20, 26:23, 29:23, 46:14, 115:5, 116:4, 117:6, 117:13, 120:5, 124:25, 127:13, 127:17, 127:21, 127:25, 128:4, 129:12, 130:10, 151:24, 162:15, 168:6, 168:8, 177:7, 177:16, 177:25, 178:12, 179:22, 208:5, 209:4, 209:5, 209:12, 210:20, 211:12, 211:16, 216:10, 219:20, 220:3, 220:19, 224:24, 225:21, 226:15, 230:19, 230:24, 231:8, 238:6, 240:18, 245:13, 257:7, 257:10, 257:21, 258:2, 258:4, 258:6, 258:16, 259:8, 293:7, 312:14, 312:17, 312:23, 313:7, 316:10, 316:14</p> <p>schedule [1] - 79:6</p> <p>scheduled [1] - 238:4</p> <p>school [1] - 46:10</p> <p>scratch [24] - 114:25, 115:2, 121:6, 121:10, 135:15, 136:12, 136:19, 136:21, 167:8, 167:9, 167:22, 225:14, 225:15, 226:19, 232:17, 232:21, 252:13, 257:15, 257:17, 260:11, 268:7, 268:9, 269:19, 302:11</p> <p>scratched [4] - 238:10, 250:19, 254:2, 262:3</p> <p>scratches [1] - 268:23</p> <p>scream [1] - 157:5</p> <p>screaming [4] - 311:20, 311:22, 311:24, 312:8</p> <p>screen [8] - 234:23, 301:10, 308:9, 308:10, 308:12, 315:7, 315:19, 316:24</p> <p>sealed [2] - 222:21, 222:24</p> <p>sealing [1] - 4:7</p> <p>search [17] - 127:16, 128:4, 142:5, 164:10, 182:6, 182:8, 183:12, 183:19, 187:16, 209:20, 238:16, 238:20, 238:24, 238:25, 289:20,</p>	<p>289:21, 291:6</p> <p>searched [12] - 164:13, 174:8, 174:9, 181:2, 181:4, 181:6, 183:7, 185:14, 210:3, 290:4, 290:18, 291:3</p> <p>seat [2] - 16:19, 18:7</p> <p>seatbelts [1] - 269:7</p> <p>second [28] - 26:7, 26:10, 26:20, 33:10, 76:5, 97:4, 97:19, 148:8, 205:5, 228:24, 235:5, 239:4, 263:25, 269:25, 277:25, 281:16, 282:23, 283:25, 284:2, 284:4, 284:9, 284:18, 294:22, 304:13, 313:5, 314:21, 318:11</p> <p>seconds [28] - 25:17, 106:4, 156:4, 181:16, 300:25, 301:8, 301:11, 301:14, 301:22, 302:4, 304:10, 304:22, 305:17, 306:9, 307:6, 307:9, 307:14, 308:2, 308:14, 309:6, 309:7, 313:15, 314:23, 314:25, 315:8, 315:12, 315:18</p> <p>section [13] - 66:7, 66:11, 67:21, 67:22, 68:7, 68:14, 68:15, 68:22, 69:17, 70:3, 199:14, 237:23, 284:6</p> <p>sections [2] - 68:5, 70:13</p> <p>security [4] - 43:3, 46:12, 237:10</p> <p>see [109] - 19:13, 20:6, 20:15, 33:3, 39:22, 39:24, 69:3, 69:17, 69:21, 91:20, 106:6, 107:14, 108:5, 108:6, 108:14, 108:15, 110:16, 111:2, 111:8, 114:13, 114:21, 114:23, 115:6, 117:4, 123:13, 124:18, 127:7, 127:12, 127:23, 128:3, 128:7, 139:2, 139:3, 142:19, 146:10, 154:4, 157:22, 160:15, 166:19, 167:6, 167:24, 168:7, 173:16, 175:5, 175:14, 188:10, 191:10, 192:2, 196:25, 200:20, 206:17, 212:16, 212:22, 212:25, 213:5, 220:23, 223:10, 230:18, 232:2, 234:5, 234:9, 239:9, 242:12, 245:5, 245:14, 249:10, 257:4, 257:6, 257:17, 257:25, 258:15, 259:2, 259:3, 259:13, 262:2, 262:7, 262:21, 268:17, 269:15, 273:19, 274:11, 275:16, 275:25, 284:8, 285:12, 286:15, 286:21, 289:13,</p>	<p>291:22, 299:14, 301:8, 301:20, 302:11, 304:9, 304:10, 308:14, 308:17, 310:2, 312:14, 313:20, 313:24, 314:2, 314:11, 314:16, 314:21, 314:22, 315:15, 315:16, 315:18</p> <p>seeing [7] - 11:21, 27:5, 161:2, 300:24, 303:19, 306:8, 310:14</p> <p>seem [3] - 169:14, 201:23, 216:24</p> <p>seemed [1] - 169:5</p> <p>seems [1] - 272:7</p> <p>seen [47] - 27:5, 27:6, 27:11, 68:14, 68:25, 69:5, 86:25, 125:12, 131:14, 135:15, 173:23, 191:15, 204:22, 207:9, 207:13, 222:8, 222:12, 233:14, 233:17, 241:17, 241:25, 243:14, 256:17, 258:3, 258:5, 258:20, 264:15, 267:14, 267:17, 273:16, 274:6, 277:14, 277:17, 279:4, 283:16, 286:7, 286:10, 286:13, 299:24, 305:11, 309:10, 309:13, 309:23, 312:15, 313:15, 313:17, 316:19</p> <p>send [6] - 49:12, 57:13, 58:12, 61:17, 273:21, 296:9</p> <p>sense [3] - 50:3, 64:6, 176:14</p> <p>sent [5] - 49:6, 49:8, 53:8, 61:15, 61:16</p> <p>sentence [1] - 290:18</p> <p>separate [2] - 91:24, 92:2</p> <p>September [1] - 323:20</p> <p>sergeant [13] - 18:6, 48:19, 117:9, 134:18, 134:20, 137:21, 138:5, 145:5, 145:7, 165:9, 176:10, 189:17, 236:16</p> <p>Sergeant [46] - 1:9, 3:11, 18:10, 18:18, 19:6, 41:23, 41:24, 48:6, 48:10, 48:15, 61:20, 62:3, 79:15, 116:7, 116:25, 117:4, 117:14, 117:17, 118:13, 122:20, 122:24, 123:23, 129:8, 139:22, 145:21, 145:25, 146:11, 146:22, 171:8, 173:4, 173:10, 174:25, 176:8, 177:2, 177:24, 179:7, 232:15, 245:7, 245:10, 246:9, 247:25, 248:4, 275:24, 276:16, 314:2, 316:19</p> <p>sergeant's [1] - 16:18</p>
---	--	---	---

<p>series ^[1] - 6:23</p> <p>serious ^[2] - 151:16, 201:24</p> <p>serve ^[1] - 128:15</p> <p>service ^[3] - 4:16, 73:11, 200:13</p> <p>session ^[2] - 182:10, 184:3</p> <p>set ^[3] - 313:10, 323:11, 323:20</p> <p>settled ^[1] - 20:18</p> <p>Shafferd ^[1] - 79:15</p> <p>Shafidire ^[2] - 48:16, 48:20</p> <p>shafidire ^[1] - 48:20</p> <p>shaken ^[3] - 236:3, 236:6, 236:19</p> <p>she ^[19] - 7:13, 30:10, 30:13, 31:8, 31:9, 32:15, 32:19, 32:21, 32:24, 33:5, 150:22, 151:2, 153:3, 153:5, 153:9, 153:15, 153:16, 153:20, 193:8</p> <p>sheet ^[6] - 134:8, 135:23, 136:3, 193:14, 221:5, 285:11</p> <p>shield ^[2] - 10:23, 243:24</p> <p>Shield ^[2] - 1:9, 3:11</p> <p>SHIELD ^[2] - 1:9, 3:11</p> <p>shift ^[1] - 9:21</p> <p>shopping ^[1] - 46:11</p> <p>short ^[3] - 147:13, 297:14, 311:13</p> <p>should ^[7] - 69:9, 73:17, 73:18, 162:10, 278:24, 292:3, 293:23</p> <p>shoulder ^[1] - 167:15</p> <p>show ^[8] - 54:11, 263:13, 263:15, 268:19, 293:18, 293:25, 299:7, 313:4</p> <p>showed ^[5] - 46:22, 51:18, 52:23, 53:25, 120:25</p> <p>showing ^[1] - 68:5</p> <p>shown ^[2] - 273:24, 274:2</p> <p>sic ^[2] - 59:15, 96:16</p> <p>side ^[66] - 19:25, 20:4, 83:23, 89:5, 94:16, 94:17, 94:18, 96:11, 96:15, 102:7, 102:16, 102:17, 102:18, 102:20, 103:2, 103:18, 106:24, 121:7, 140:16, 140:25, 141:2, 141:22, 147:23, 147:24, 147:25, 148:2, 148:5, 148:11, 148:12, 149:5, 150:19, 151:6, 151:8, 153:7, 153:21, 154:9, 154:14, 154:16, 190:16, 190:17, 195:22, 196:4, 212:17, 213:19, 215:21, 220:21, 234:6, 260:12, 261:8, 262:17, 262:18, 263:2, 263:8, 268:6, 268:10, 268:18, 269:16, 270:9, 270:10, 307:20,</p>	<p>307:23, 310:18, 313:12, 313:18, 322:10</p> <p>sidewalk ^[7] - 88:19, 89:2, 119:4, 274:12, 304:12, 305:19, 307:15</p> <p>sight ^[2] - 194:23, 197:2</p> <p>sign ^[23] - 29:20, 32:20, 32:22, 32:23, 32:24, 33:4, 84:12, 87:6, 87:9, 87:12, 87:17, 88:2, 131:9, 193:14, 232:18, 254:9, 254:11, 254:13, 254:16, 254:19, 254:22, 255:8, 283:21</p> <p>signal ^[1] - 157:23</p> <p>signature ^[1] - 255:3</p> <p>signed ^[8] - 4:10, 4:12, 4:15, 193:24, 198:9, 283:23, 283:25, 284:18</p> <p>signs ^[1] - 80:4</p> <p>SILA ^[6] - 187:16, 206:5, 226:21, 238:12, 238:16, 238:24</p> <p>simple ^[1] - 190:15</p> <p>since ^[10] - 41:18, 47:21, 47:25, 48:7, 48:11, 48:17, 69:5, 78:13, 229:22, 267:16</p> <p>single ^[1] - 195:4</p> <p>sir ^[1] - 130:16</p> <p>sirens ^[14] - 88:3, 88:6, 104:11, 105:17, 107:22, 107:25, 108:2, 128:18, 130:15, 130:17, 139:14, 156:13, 156:16, 304:2</p> <p>sit ^[2] - 96:8, 113:10</p> <p>site ^[1] - 106:12</p> <p>sitting ^[12] - 16:18, 60:21, 94:10, 118:15, 118:17, 118:21, 126:18, 126:25, 127:8, 246:5, 296:16, 306:16</p> <p>situation ^[7] - 65:15, 65:22, 89:23, 89:25, 104:12, 202:18, 202:24</p> <p>Six ^[1] - 240:25</p> <p>six ^[3] - 9:19, 29:16, 150:14</p> <p>skipping ^[1] - 256:19</p> <p>slash ^[2] - 253:15, 268:8</p> <p>sleep ^[1] - 9:17</p> <p>slowed ^[1] - 231:14</p> <p>slowly ^[2] - 16:22, 310:19</p> <p>so ^[401] - 6:25, 7:12, 11:20, 11:24, 12:4, 13:21, 13:25, 14:4, 14:11, 15:4, 16:9, 16:24, 20:13, 21:11, 23:11, 25:9, 26:10, 28:13, 28:16, 29:10, 29:13, 29:17, 29:22, 30:3, 32:4, 36:4, 36:5, 37:13, 38:8, 39:2, 39:9, 40:3, 40:17, 41:19, 43:4, 43:5, 44:25, 46:2, 46:13, 46:14, 47:2, 47:5, 47:25, 50:10, 50:17,</p>	<p>51:2, 51:17, 52:2, 52:11, 52:21, 53:13, 55:3, 55:13, 56:16, 58:14, 59:3, 59:23, 60:22, 63:16, 63:19, 63:21, 64:21, 65:16, 65:19, 67:2, 67:5, 67:18, 68:4, 68:13, 68:24, 69:8, 69:15, 70:17, 71:7, 71:12, 71:16, 72:4, 72:9, 72:22, 73:14, 74:11, 75:6, 75:13, 75:20, 77:10, 77:14, 77:23, 78:11, 79:8, 79:17, 81:6, 81:10, 82:6, 82:12, 82:14, 82:22, 82:25, 83:17, 85:18, 86:12, 87:11, 87:14, 87:24, 88:5, 89:6, 89:14, 89:24, 90:7, 90:15, 90:21, 91:15, 93:19, 94:2, 94:7, 95:6, 95:19, 95:24, 95:25, 96:10, 98:2, 99:11, 101:25, 102:11, 102:25, 103:6, 103:19, 104:13, 104:21, 105:13, 107:8, 108:10, 110:10, 110:19, 111:14, 112:14, 112:25, 113:5, 114:15, 115:2, 115:15, 117:21, 118:3, 120:7, 120:11, 120:15, 120:18, 122:12, 123:19, 124:6, 125:19, 126:3, 126:10, 126:20, 128:22, 128:23, 129:8, 130:12, 130:19, 132:15, 132:22, 133:3, 133:6, 133:12, 134:4, 135:21, 136:14, 136:25, 137:20, 138:23, 139:16, 140:4, 140:8, 142:18, 142:22, 143:3, 143:5, 144:7, 148:16, 149:10, 149:14, 150:7, 150:11, 150:25, 151:2, 152:4, 153:2, 154:7, 155:4, 156:5, 156:21, 156:25, 159:17, 160:8, 160:18, 161:2, 161:11, 161:13, 165:5, 165:8, 166:22, 169:4, 170:10, 171:2, 173:25, 177:10, 177:23, 179:17, 179:20, 180:9, 180:14, 180:19, 180:24, 181:24, 183:6, 184:2, 184:8, 189:5, 189:16, 190:4, 193:22, 194:9, 194:20, 195:9, 195:16, 195:21, 196:14, 197:3, 198:11, 199:19, 200:2, 200:9, 201:4, 201:23, 202:15, 203:17, 205:5, 209:17, 209:20, 210:2, 210:19, 211:10, 211:24, 212:19, 213:16, 213:25, 214:13, 216:2, 216:20, 217:22, 218:24, 219:12,</p>	<p>219:13, 219:14, 220:10, 221:15, 223:4, 223:7, 223:23, 224:5, 225:6, 225:7, 226:4, 226:24, 228:6, 228:9, 230:15, 231:6, 232:20, 232:22, 233:9, 235:24, 237:21, 238:16, 238:24, 239:3, 239:7, 239:18, 239:21, 239:24, 240:5, 240:10, 242:7, 244:18, 244:21, 245:21, 245:23, 246:7, 246:12, 248:5, 248:17, 248:21, 248:25, 249:19, 250:18, 250:21, 251:10, 251:15, 251:21, 252:9, 252:13, 253:18, 254:5, 254:11, 254:12, 254:15, 254:25, 255:16, 256:19, 256:22, 257:20, 258:19, 259:15, 260:4, 260:8, 261:23, 261:25, 262:5, 262:16, 262:23, 263:6, 264:24, 266:15, 266:22, 267:7, 268:21, 270:22, 271:9, 274:10, 275:11, 275:22, 277:20, 278:24, 280:21, 281:11, 282:7, 282:17, 283:19, 283:22, 285:7, 286:18, 286:24, 287:2, 288:14, 289:15, 289:16, 289:22, 289:25, 291:9, 291:17, 291:21, 292:25, 293:15, 294:13, 294:14, 294:19, 294:23, 295:6, 295:10, 295:17, 296:15, 296:20, 296:24, 299:7, 299:12, 299:17, 300:9, 300:13, 300:23, 301:5, 301:10, 301:12, 302:3, 302:10, 303:9, 303:15, 304:21, 305:4, 305:10, 307:13, 307:21, 307:25, 308:13, 309:20, 311:2, 311:3, 313:14, 313:19, 314:7, 314:14, 314:20, 314:22, 315:18, 316:22, 317:3</p> <p>So ^[1] - 264:11</p> <p>socialized ^[1] - 61:11</p> <p>solely ^[1] - 310:23</p> <p>some ^[17] - 6:24, 24:10, 39:9, 66:5, 68:17, 79:24, 89:17, 98:8, 119:19, 142:18, 159:22, 159:25, 181:11, 185:24, 194:5, 235:14, 258:20</p> <p>somebody ^[1] - 137:8</p> <p>someone ^[17] - 17:11, 26:21, 27:10, 27:24, 41:9, 64:13, 67:5, 72:12, 75:8,</p>
---	--	---	---

<p>117:24, 117:25, 138:6, 171:25, 182:13, 245:19, 250:9, 258:19 something [41] - 13:23, 15:10, 17:13, 20:19, 25:18, 33:13, 36:23, 37:22, 39:24, 43:24, 50:7, 60:6, 78:9, 79:19, 81:13, 84:13, 86:10, 87:18, 113:15, 113:22, 135:7, 135:16, 145:18, 150:15, 161:24, 162:4, 172:2, 199:3, 208:6, 208:12, 218:23, 219:2, 219:14, 220:10, 225:18, 229:16, 252:21, 298:24, 302:22, 309:8, 311:20 sometime [10] - 37:24, 85:10, 85:12, 85:14, 120:14, 148:24, 233:25, 284:18, 295:7, 295:9 sometimes [3] - 37:24, 61:7, 211:12 somewhere [9] - 17:25, 52:4, 87:16, 119:5, 142:3, 142:8, 148:25, 183:2, 294:24 soon [5] - 16:25, 20:9, 29:14, 53:17, 133:25 Sorry [1] - 301:6 sorry [109] - 14:22, 22:3, 30:14, 34:14, 40:13, 44:19, 45:15, 45:17, 48:19, 57:21, 59:8, 62:14, 70:16, 75:11, 77:22, 84:4, 92:25, 93:11, 117:23, 124:22, 126:5, 132:5, 142:9, 143:14, 149:2, 150:6, 150:7, 154:13, 158:22, 159:20, 163:7, 173:22, 178:22, 179:14, 179:24, 188:22, 189:13, 189:19, 193:21, 197:9, 198:23, 199:16, 199:18, 205:18, 210:2, 210:15, 214:10, 215:4, 216:15, 221:10, 221:19, 222:20, 223:11, 223:12, 223:16, 223:17, 224:18, 225:13, 226:16, 227:6, 227:16, 231:22, 234:24, 236:24, 239:2, 243:7, 244:5, 244:10, 244:20, 252:5, 252:6, 253:2, 253:8, 254:10, 255:24, 260:10, 260:16, 261:13, 262:5, 262:6, 262:9, 262:22, 263:24, 264:4, 265:5, 265:15, 270:2, 272:3, 272:14, 275:21, 279:10, 279:14, 279:20, 279:24, 280:12, 282:5, 285:6, 290:15, 291:6, 292:3, 292:20, 295:3, 298:19,</p>	<p>307:24, 308:8, 312:16, 317:10 sort [3] - 217:11, 308:3, 316:24 sound [1] - 299:5 sounds [4] - 35:24, 47:5, 153:3, 180:16 south [7] - 83:13, 84:7, 95:2, 95:3, 95:4, 103:18, 148:11 southbound [7] - 83:22, 84:6, 87:22, 91:16, 97:24, 194:20, 284:15 speak [10] - 8:2, 53:20, 56:3, 117:5, 131:17, 132:20, 135:18, 138:16, 187:24, 192:5 speaking [2] - 65:10, 124:11 specific [4] - 46:18, 79:18, 241:18, 242:4 specifically [1] - 66:15 specified [1] - 320:11 speeding [2] - 33:25, 34:3 spell [2] - 266:7, 266:9 spoke [9] - 55:22, 123:23, 132:13, 132:16, 132:17, 179:11, 193:7, 291:16, 312:17 spoken [8] - 47:21, 48:2, 48:6, 48:11, 48:16, 48:25, 61:2, 307:4 spontaneously [2] - 143:10, 143:15 squad [1] - 243:25 SS [1] - 323:4 stamp [1] - 279:21 stamped [5] - 205:6, 248:18, 256:5, 263:19, 286:12 Stamped [1] - 239:4 stand [10] - 287:6, 287:20, 289:6, 294:8, 294:11, 294:17, 294:21, 294:23, 295:7, 295:11 standard [1] - 167:3 standing [11] - 94:19, 95:6, 96:10, 101:21, 134:15, 155:3, 171:9, 246:8, 246:19, 247:15, 269:5 stands [1] - 241:24 stapled [1] - 278:22 STARRANTINO [2] - 1:10, 3:12 Starrantino [22] - 48:6, 61:21, 116:7, 116:25, 117:5, 117:14, 117:17, 118:14, 122:20, 122:24, 128:24, 129:9, 139:22, 146:22, 177:2, 177:24, 179:7, 245:7,</p>	<p>275:25, 276:16, 314:3, 316:19 Starrantino's [1] - 248:4 start [7] - 6:23, 23:11, 73:24, 100:4, 140:22, 233:13, 311:6 started [12] - 17:23, 22:4, 80:21, 89:10, 91:7, 103:25, 104:6, 180:7, 203:11, 228:21, 307:12, 311:15 starting [3] - 206:8, 302:22, 307:10 starts [1] - 69:24 State [3] - 2:12, 6:9, 323:8 state [2] - 6:13, 74:7 STATE [1] - 323:4 stated [2] - 187:6, 284:11 statement [1] - 121:18 STATES [1] - 1:2 States [1] - 5:13 stationhouse [4] - 118:2, 118:6, 124:2, 180:13 status [4] - 20:17, 20:21, 242:6, 242:13 stay [2] - 35:25, 271:12 stayed [1] - 125:19 steady [2] - 226:13, 282:23 step [2] - 90:10, 96:6 stepped [1] - 90:24 stick [1] - 128:23 sticker [1] - 210:24 still [31] - 17:12, 19:4, 19:6, 61:5, 61:21, 62:4, 62:7, 66:2, 74:23, 100:8, 109:21, 125:3, 125:25, 130:24, 131:2, 134:15, 168:14, 168:17, 190:23, 239:17, 267:13, 270:17, 284:25, 285:7, 287:11, 296:18, 301:17, 302:20, 305:11, 307:17, 315:16 STIPULATED [2] - 4:5, 4:20 stop [77] - 29:20, 32:20, 32:22, 32:23, 33:4, 69:20, 73:18, 75:9, 80:4, 82:21, 84:12, 87:6, 87:9, 87:12, 87:25, 88:24, 88:25, 89:18, 90:19, 91:14, 92:5, 92:8, 92:12, 92:24, 93:7, 95:10, 95:13, 96:4, 96:23, 97:6, 97:7, 97:10, 97:12, 100:15, 101:22, 107:11, 108:3, 109:8, 109:9, 109:17, 111:10, 116:18, 131:9, 144:18, 144:19, 154:20, 155:19, 155:22, 155:23, 156:10, 156:14, 157:3, 157:24, 158:5, 158:9, 158:15, 158:18, 158:20, 158:24, 159:11, 160:7,</p>	<p>195:14, 201:12, 203:4, 205:16, 205:20, 226:13, 226:14, 238:4, 238:5, 263:25, 300:10, 303:7, 303:8, 305:8, 306:3, 306:6 stopped [29] - 16:25, 32:18, 82:18, 85:16, 85:18, 86:17, 88:4, 88:11, 90:21, 91:6, 93:25, 94:3, 94:8, 95:9, 97:2, 100:16, 133:9, 194:12, 201:13, 201:14, 202:25, 231:13, 238:12, 304:14, 304:19, 304:25, 305:5, 305:7, 305:23 stopping [5] - 74:23, 85:5, 87:10, 156:19, 231:15 stops [2] - 85:20, 90:11 stories [1] - 293:15 story [14] - 197:24, 198:3, 198:8, 216:11, 216:17, 217:11, 217:16, 219:5, 219:19, 219:21, 219:22, 220:6, 275:13, 284:5 straight [4] - 32:19, 153:3, 161:4, 302:21 Street [33] - 2:11, 3:5, 3:14, 5:12, 83:2, 83:3, 83:16, 83:21, 87:13, 87:22, 91:12, 101:7, 101:11, 102:11, 104:17, 104:18, 104:19, 108:9, 125:4, 133:23, 148:12, 148:13, 148:25, 194:20, 194:22, 205:17, 226:12, 227:3, 227:13, 235:22, 235:23, 238:3, 284:14 street [42] - 16:24, 29:19, 80:4, 82:19, 83:18, 83:19, 83:20, 83:22, 84:13, 94:20, 94:23, 101:22, 102:5, 102:17, 102:19, 103:3, 103:14, 103:15, 103:16, 112:12, 112:17, 116:17, 119:4, 138:2, 138:23, 148:11, 178:7, 187:8, 194:19, 195:23, 201:11, 203:9, 205:19, 206:5, 213:19, 227:5, 230:21, 282:22, 284:15, 306:10, 307:17 stretcher [2] - 170:14, 170:22 strike [10] - 92:14, 111:13, 212:25, 244:9, 245:24, 249:23, 261:10, 263:14, 271:3, 302:2 Strike [1] - 198:18 strikes [1] - 301:2 striking [2] - 28:4, 302:5 struck [30] - 15:18, 15:22,</p>
--	---	---	--

<p>27:24, 44:12, 59:14, 59:24, 119:20, 121:24, 144:23, 146:2, 154:9, 159:11, 162:16, 163:11, 172:22, 189:8, 190:10, 190:22, 191:5, 205:21, 208:23, 231:7, 259:21, 260:14, 261:6, 261:25, 270:7, 297:20, 298:7, 312:25</p> <p>struck^[1] - 59:15</p> <p>struggling^[1] - 281:5</p> <p>stuff^[3] - 184:5, 237:4, 311:15</p> <p>subject^[5] - 46:6, 51:6, 51:7, 56:11, 73:12</p> <p>Subscribed^[1] - 320:18</p> <p>substance^[3] - 113:17, 113:25, 130:6</p> <p>such^[2] - 80:3, 323:12</p> <p>sue^[4] - 31:17, 31:19, 152:13, 173:6</p> <p>sued^[4] - 27:25, 58:11, 60:8, 152:10</p> <p>suggest^[3] - 138:6, 147:6, 147:8</p> <p>suing^[9] - 13:22, 15:14, 58:25, 59:4, 59:7, 59:11, 59:14, 60:3, 189:8</p> <p>sum^[3] - 113:16, 113:25, 130:5</p> <p>summoned^[1] - 191:10</p> <p>summons^[27] - 89:10, 90:24, 91:5, 91:8, 95:19, 95:23, 96:2, 96:9, 99:13, 100:7, 125:3, 128:15, 130:13, 130:17, 131:6, 131:17, 133:2, 133:4, 133:7, 133:13, 133:22, 155:20, 179:12, 180:4, 191:20, 201:17, 276:8</p> <p>summonses^[1] - 179:22</p> <p>Sunday^[1] - 286:20</p> <p>supervisor^[19] - 41:14, 41:22, 42:5, 47:3, 55:5, 55:12, 62:2, 62:6, 79:14, 115:20, 116:3, 176:23, 188:22, 201:7, 203:19, 204:2, 232:16, 245:6, 251:12</p> <p>supervisor's^[1] - 201:2</p> <p>supervisors^[3] - 45:6, 54:15, 55:18</p> <p>support^[1] - 279:9</p> <p>Supporting^[1] - 321:20</p> <p>supporting^[5] - 187:3, 193:17, 277:4, 277:6, 279:10</p> <p>supposed^[9] - 54:11, 63:4, 63:10, 63:23, 64:6, 64:25, 99:12, 227:4, 246:17</p> <p>sure^[66] - 13:17, 27:17, 27:18, 31:9, 34:25, 43:5,</p>	<p>44:21, 45:25, 46:3, 48:21, 53:11, 68:12, 71:23, 82:23, 82:24, 91:25, 102:9, 105:8, 105:10, 121:13, 136:21, 140:4, 141:13, 162:11, 165:7, 171:6, 179:25, 181:17, 182:21, 189:19, 192:22, 193:2, 198:22, 210:4, 210:10, 210:11, 215:18, 221:4, 226:10, 233:12, 241:16, 242:19, 245:20, 247:7, 252:11, 253:12, 258:22, 259:8, 264:3, 264:14, 265:22, 266:4, 266:10, 268:12, 282:7, 287:15, 294:14, 296:9, 299:21, 300:2, 300:12, 309:8, 313:22, 313:25, 316:21, 317:2</p> <p>surgeries^[1] - 299:4</p> <p>surgery^[3] - 298:15, 298:23, 298:25</p> <p>suspect^[1] - 200:15</p> <p>suspected^[1] - 67:6</p> <p>suspended^[1] - 41:2</p> <p>suspension^[1] - 42:14</p> <p>suspicious^[2] - 190:5, 190:11</p> <p>sustained^[1] - 196:23</p> <p>swear^[1] - 6:6</p> <p>switch^[2] - 78:16, 81:12</p> <p>sworn^[5] - 4:10, 6:8, 320:5, 320:18, 323:11</p> <p>system^[6] - 39:4, 60:9, 60:19, 60:20, 223:8, 232:24</p>	<p>taking^[5] - 7:5, 124:15, 147:6, 147:8, 270:8</p> <p>talk^[13] - 27:3, 68:21, 82:13, 82:22, 131:10, 179:6, 186:18, 197:7, 236:22, 272:17, 272:20, 279:16, 312:13</p> <p>talked^[5] - 72:11, 95:19, 128:24, 279:3, 297:19</p> <p>talking^[20] - 33:11, 69:24, 72:4, 84:21, 85:19, 86:17, 134:10, 142:15, 168:17, 169:14, 186:19, 193:4, 214:11, 221:12, 229:12, 262:20, 280:22, 286:11, 290:5, 314:17</p> <p>tall^[2] - 298:11</p> <p>tapped^[1] - 16:25</p> <p>Target^[1] - 46:11</p> <p>taught^[2] - 66:18</p> <p>tax^[2] - 10:25, 243:24</p> <p>te^[1] - 190:17</p> <p>team^[1] - 77:17</p> <p>tell^[52] - 7:20, 9:23, 10:5, 10:13, 47:3, 53:24, 54:14, 55:4, 66:15, 66:22, 71:16, 91:9, 92:5, 92:8, 92:11, 97:10, 110:2, 116:14, 116:22, 117:9, 137:21, 137:24, 138:17, 138:19, 139:23, 144:18, 144:22, 156:13, 157:3, 157:4, 175:23, 175:24, 177:11, 177:23, 194:9, 197:4, 257:17, 268:7, 269:18, 274:15, 287:3, 290:24, 292:22, 293:2, 293:5, 293:14, 294:20, 294:21, 298:21, 303:7, 314:5, 315:10</p> <p>telling^[9] - 16:19, 22:6, 57:14, 97:12, 101:22, 118:13, 139:22, 173:4, 304:23</p> <p>tells^[1] - 96:22</p> <p>ten^[2] - 150:23, 251:9</p> <p>terminated^[2] - 73:9, 200:12</p> <p>terms^[11] - 11:24, 19:21, 26:14, 59:20, 72:14, 75:21, 83:12, 154:8, 244:11, 276:15, 317:12</p> <p>test^[5] - 185:9, 185:12, 185:16, 187:2, 279:13</p> <p>testified^[16] - 6:10, 14:5, 52:13, 56:9, 56:17, 56:20, 56:24, 57:17, 57:23, 58:4, 143:5, 192:25, 266:23, 287:22, 287:25, 297:4</p> <p>testify^[5] - 52:18, 192:24, 287:15, 293:15, 320:5</p>	<p>testifying^[10] - 14:20, 15:4, 15:6, 15:8, 52:8, 55:16, 295:14, 295:16, 296:16, 296:21</p> <p>testimony^[12] - 12:21, 12:24, 13:7, 13:18, 20:14, 56:12, 58:6, 295:18, 305:11, 320:6, 320:10, 323:13</p> <p>text^[26] - 49:9, 49:11, 49:12, 49:20, 50:25, 52:13, 52:19, 52:22, 54:23, 55:23, 56:3, 56:8, 61:17, 193:4, 285:20, 285:22, 286:24, 287:4, 287:8, 288:5, 288:11, 289:18, 290:15, 290:16, 295:2, 295:21</p> <p>texted^[4] - 50:6, 51:20, 52:2, 289:5</p> <p>texting^[7] - 50:13, 50:20, 55:14, 288:15, 291:11, 291:15, 296:17</p> <p>texts^[2] - 287:25, 294:20</p> <p>Thames^[3] - 266:2, 272:18, 272:19</p> <p>thames^[2] - 266:5, 266:6</p> <p>THAMES^[1] - 266:9</p> <p>than^[20] - 12:19, 13:12, 13:14, 13:16, 28:11, 93:5, 93:8, 94:4, 104:24, 105:3, 105:6, 106:3, 150:22, 150:23, 150:24, 156:5, 163:23, 164:2, 164:3, 301:15</p> <p>Thank^[1] - 149:10</p> <p>thank^[13] - 26:9, 76:10, 233:8, 241:11, 242:20, 243:10, 269:24, 278:11, 283:5, 286:2, 289:13, 289:14, 318:19</p> <p>that^[712] - 4:7, 4:9, 4:13, 4:20, 6:25, 7:6, 7:12, 7:14, 7:21, 8:2, 8:6, 8:21, 8:23, 9:3, 10:4, 10:7, 10:8, 10:10, 11:20, 11:21, 12:11, 12:25, 13:3, 13:23, 14:2, 14:18, 15:5, 15:16, 15:17, 15:18, 15:21, 16:10, 16:23, 17:9, 18:8, 19:19, 20:14, 20:24, 21:9, 23:19, 23:23, 24:6, 24:11, 24:17, 26:9, 26:12, 26:15, 27:6, 27:11, 27:14, 27:15, 27:22, 28:21, 29:16, 30:22, 31:13, 33:6, 33:11, 34:13, 36:19, 39:16, 41:4, 43:8, 43:13, 43:18, 43:24, 44:5, 44:10, 44:16, 44:23, 45:13, 45:20, 45:24, 46:2, 46:12, 46:14, 46:25, 47:4, 47:8, 47:14, 47:19, 47:23, 48:2, 48:7, 48:21, 49:7, 49:9, 50:11, 50:14, 50:19, 52:11,</p>
--	--	--	---

52:12, 52:22, 53:25, 54:13, 54:23, 55:3, 55:4, 55:5, 55:15, 55:17, 56:4, 56:9, 56:12, 56:15, 56:24, 59:23, 60:14, 60:15, 60:19, 61:14, 61:18, 61:24, 62:11, 62:12, 63:7, 64:10, 64:12, 64:20, 64:22, 64:25, 65:2, 65:5, 65:20, 65:21, 66:7, 66:11, 67:8, 67:12, 67:15, 68:5, 68:25, 69:3, 69:9, 69:18, 69:21, 70:2, 70:18, 71:16, 72:19, 72:20, 73:3, 73:6, 73:8, 73:15, 73:20, 75:2, 75:8, 75:11, 75:12, 75:13, 75:15, 76:5, 76:6, 76:7, 77:11, 79:2, 79:14, 79:20, 79:22, 80:19, 81:3, 81:23, 82:2, 82:15, 82:22, 83:19, 84:17, 84:23, 85:2, 85:5, 85:16, 85:19, 85:21, 85:24, 86:4, 86:8, 86:13, 86:16, 86:17, 86:18, 87:15, 88:8, 88:22, 91:17, 92:10, 92:14, 92:25, 94:7, 94:9, 94:13, 94:23, 95:7, 95:12, 95:16, 96:3, 97:6, 97:8, 97:18, 98:21, 98:25, 99:3, 99:4, 99:12, 100:6, 100:14, 100:15, 101:18, 103:11, 103:13, 105:14, 107:17, 107:18, 107:21, 108:11, 108:15, 108:19, 108:22, 109:17, 109:22, 111:13, 112:9, 112:12, 112:14, 113:13, 113:20, 114:3, 115:10, 115:19, 117:10, 119:19, 120:3, 120:19, 121:16, 121:24, 121:25, 122:2, 122:8, 122:13, 123:10, 123:12, 123:25, 125:12, 127:20, 129:4, 130:10, 130:23, 131:17, 131:20, 131:22, 131:24, 132:3, 132:4, 132:6, 132:8, 132:11, 132:14, 132:19, 133:7, 133:9, 133:22, 134:23, 135:10, 135:19, 137:6, 137:14, 137:19, 138:6, 138:7, 138:10, 139:3, 139:6, 139:9, 139:23, 140:5, 140:9, 140:21, 141:4, 141:7, 141:10, 141:19, 141:22, 142:2, 142:3, 142:12, 142:25, 143:5, 143:19, 143:22, 144:9, 144:20, 144:22, 144:25, 145:2, 145:9, 145:23, 146:2, 148:17, 148:21, 149:12, 150:15, 152:8, 152:11, 152:17, 152:20, 153:16,	156:8, 156:21, 157:2, 157:4, 157:20, 158:3, 158:7, 158:8, 158:22, 159:8, 159:9, 159:14, 159:15, 159:20, 160:5, 160:20, 162:3, 162:9, 162:12, 162:14, 162:15, 162:20, 162:22, 162:25, 163:11, 164:20, 165:12, 165:18, 165:25, 166:9, 166:14, 166:23, 167:7, 170:18, 171:12, 171:16, 172:6, 172:15, 173:4, 173:5, 173:21, 173:22, 173:23, 174:6, 176:4, 176:15, 177:5, 178:15, 178:20, 179:2, 179:7, 179:17, 179:21, 180:12, 180:25, 182:3, 182:14, 183:2, 183:15, 185:4, 185:18, 186:3, 186:4, 186:5, 186:8, 186:12, 186:17, 187:6, 187:19, 187:22, 187:24, 188:2, 188:7, 188:9, 189:5, 189:7, 189:17, 189:24, 189:25, 190:10, 190:14, 190:18, 191:2, 191:5, 191:10, 191:17, 191:18, 191:19, 192:2, 192:8, 192:23, 193:8, 194:4, 194:9, 194:23, 194:25, 195:4, 195:7, 195:10, 195:12, 195:16, 195:21, 196:3, 196:4, 196:7, 196:9, 196:20, 196:22, 197:5, 197:10, 197:13, 197:23, 198:6, 198:11, 198:18, 198:24, 198:25, 199:9, 199:21, 200:3, 200:7, 200:10, 200:11, 200:16, 200:22, 201:5, 201:9, 201:11, 201:23, 201:24, 202:5, 202:18, 203:22, 204:6, 205:14, 206:20, 207:23, 208:15, 208:18, 208:22, 209:8, 209:11, 210:2, 210:4, 210:11, 210:12, 211:3, 211:7, 212:5, 212:7, 212:19, 212:22, 213:3, 213:9, 213:10, 213:12, 213:14, 213:17, 213:25, 214:7, 214:14, 215:2, 215:17, 216:9, 216:11, 216:17, 216:21, 216:24, 216:25, 217:2, 217:10, 217:11, 218:6, 218:23, 219:13, 219:14, 219:15, 220:6, 220:8, 220:10, 220:11, 220:23, 221:2, 221:9, 221:13, 222:21, 223:24, 224:5, 224:6, 224:18, 225:16, 226:8, 226:25, 227:2, 228:2,	228:10, 228:22, 229:11, 229:19, 229:22, 230:9, 230:16, 232:15, 234:3, 234:18, 234:21, 235:8, 236:4, 237:4, 237:12, 238:18, 238:19, 239:10, 239:16, 239:21, 239:24, 240:6, 240:8, 240:11, 240:14, 240:17, 244:9, 244:12, 244:13, 244:16, 245:3, 245:22, 245:25, 246:14, 246:15, 247:5, 249:2, 249:11, 249:23, 250:4, 251:11, 252:16, 252:19, 253:6, 253:7, 253:22, 254:13, 255:4, 255:18, 256:23, 256:24, 257:4, 257:5, 257:6, 257:18, 257:25, 258:3, 258:6, 258:20, 259:21, 260:13, 260:14, 261:5, 261:21, 261:24, 262:5, 262:14, 263:7, 263:14, 264:4, 264:20, 265:12, 265:20, 266:4, 266:7, 266:14, 266:16, 266:23, 267:3, 267:5, 267:8, 267:9, 267:15, 267:17, 268:2, 269:2, 269:18, 271:21, 272:10, 272:12, 274:16, 275:8, 275:25, 276:7, 276:8, 276:12, 276:22, 278:16, 278:19, 279:2, 279:21, 280:14, 280:19, 281:2, 281:7, 282:8, 282:18, 282:20, 284:11, 285:16, 286:11, 286:21, 286:23, 287:2, 287:15, 287:24, 288:22, 289:5, 289:19, 290:6, 290:9, 290:14, 290:15, 291:2, 291:4, 292:12, 293:6, 293:10, 293:13, 293:15, 293:23, 295:18, 295:24, 296:12, 297:19, 298:5, 298:6, 298:10, 298:14, 298:15, 299:3, 299:8, 299:12, 299:19, 299:24, 300:16, 300:18, 300:20, 300:23, 300:25, 301:18, 302:2, 302:17, 303:5, 303:11, 303:19, 304:8, 305:11, 305:16, 305:18, 306:2, 307:4, 307:16, 308:25, 310:15, 310:24, 311:4, 311:9, 311:11, 311:15, 314:21, 316:3, 316:8, 316:11, 316:15, 317:10, 318:7, 318:11, 318:14, 320:4, 320:8, 323:12, 323:13, 323:14, 323:16	That ^[1] - 323:10 That's ^[1] - 215:9 that's ^[121] - 15:3, 19:18, 22:14, 33:16, 41:19, 54:12, 54:20, 59:19, 60:20, 66:24, 67:9, 70:6, 95:8, 99:11, 103:8, 103:9, 105:11, 109:7, 109:15, 122:17, 128:20, 129:13, 129:14, 129:15, 139:14, 140:24, 143:3, 145:23, 148:16, 149:8, 149:14, 155:3, 165:4, 170:7, 170:9, 171:24, 177:20, 178:23, 179:15, 179:16, 180:2, 182:20, 184:22, 189:8, 193:3, 193:19, 195:3, 195:24, 196:6, 198:24, 199:19, 205:2, 205:6, 210:16, 212:8, 213:24, 214:2, 215:5, 215:9, 215:10, 216:3, 216:20, 217:15, 225:6, 228:18, 231:4, 232:11, 235:5, 235:16, 239:8, 240:24, 244:17, 244:21, 244:23, 244:25, 246:9, 247:5, 247:25, 252:4, 256:23, 257:5, 257:20, 261:14, 264:24, 266:13, 266:16, 266:23, 267:4, 268:7, 269:11, 269:22, 270:18, 272:8, 273:22, 274:19, 275:22, 277:25, 279:14, 281:9, 281:11, 281:12, 282:9, 285:7, 286:22, 286:24, 289:22, 291:19, 292:21, 293:24, 298:6, 298:13, 303:9, 307:15, 309:20, 314:22, 316:23, 317:2, 317:11 the ^[1636] - 1:11, 1:11, 2:5, 2:7, 2:8, 2:9, 2:12, 3:4, 3:10, 3:13, 3:13, 4:6, 4:7, 4:8, 4:9, 4:10, 4:12, 4:13, 4:14, 4:15, 4:16, 4:17, 4:18, 4:22, 5:3, 5:10, 5:13, 5:15, 5:20, 5:22, 6:2, 6:4, 6:6, 6:9, 6:13, 6:20, 6:25, 7:7, 7:8, 7:12, 7:21, 8:3, 8:6, 8:9, 8:10, 8:15, 8:17, 8:24, 9:5, 9:8, 9:11, 9:14, 10:5, 10:7, 10:8, 10:13, 11:18, 11:24, 12:10, 13:3, 14:3, 14:14, 14:25, 15:12, 15:13, 16:5, 16:7, 16:9, 16:13, 16:17, 16:18, 16:20, 16:21, 16:23, 16:24, 17:2, 17:4, 17:10, 17:12, 17:13, 17:16, 18:2, 18:3, 18:5, 18:6, 18:12, 18:15, 18:16, 19:4, 19:6, 19:11, 19:13, 19:14, 19:17, 19:19, 19:24, 20:10, 20:14, 20:17, 20:21, 21:10,
---	--	--	---

21:11, 21:19, 21:21, 22:8, 22:11, 22:17, 23:2, 23:10, 23:12, 23:16, 23:25, 24:2, 24:14, 24:23, 24:25, 25:3, 25:6, 25:21, 25:23, 26:5, 26:7, 26:10, 26:16, 26:17, 26:18, 26:20, 26:23, 26:24, 27:2, 27:3, 27:4, 27:9, 27:15, 27:16, 27:23, 28:4, 28:21, 28:23, 29:6, 29:15, 29:18, 29:19, 29:22, 30:4, 30:5, 31:3, 31:6, 31:8, 32:3, 32:6, 32:9, 32:10, 32:12, 32:13, 32:20, 32:22, 33:10, 33:11, 33:12, 33:16, 33:19, 33:21, 33:22, 34:24, 35:7, 35:19, 36:7, 36:12, 36:15, 36:25, 37:5, 37:8, 37:11, 37:19, 38:2, 38:25, 39:7, 39:14, 39:22, 41:7, 41:11, 43:18, 43:20, 43:23, 44:9, 44:12, 44:13, 45:2, 45:6, 45:18, 46:2, 46:12, 46:13, 46:14, 46:15, 46:21, 47:2, 47:21, 48:7, 49:14, 49:20, 49:25, 50:6, 50:10, 50:15, 50:18, 50:23, 50:25, 51:5, 51:7, 51:9, 51:10, 51:11, 51:15, 51:16, 51:17, 51:18, 51:22, 51:23, 51:24, 51:25, 52:3, 52:5, 52:19, 52:22, 52:23, 52:25, 53:17, 53:25, 54:10, 54:19, 54:20, 54:21, 54:23, 55:2, 55:11, 55:14, 55:18, 55:22, 55:23, 56:3, 56:4, 56:16, 56:19, 56:21, 57:3, 57:13, 58:12, 58:15, 58:19, 59:12, 59:15, 59:20, 60:8, 60:18, 60:20, 61:14, 62:7, 62:23, 64:12, 65:19, 65:20, 65:21, 65:24, 66:22, 66:24, 67:9, 67:11, 67:20, 67:21, 67:23, 68:2, 68:6, 68:9, 68:13, 68:15, 68:16, 69:4, 69:6, 69:16, 71:18, 71:20, 71:24, 72:3, 72:5, 72:21, 72:23, 73:2, 73:10, 73:11, 73:12, 73:17, 73:18, 73:25, 74:4, 74:7, 74:22, 75:7, 75:13, 75:14, 75:21, 75:22, 76:5, 76:17, 77:15, 77:16, 77:19, 78:11, 78:23, 78:25, 79:3, 79:7, 79:24, 80:3, 80:8, 80:11, 80:19, 80:23, 81:4, 81:11, 81:12, 81:14, 82:20, 83:5, 83:6, 83:13, 83:18, 83:22, 84:3, 84:9, 84:11, 84:16, 84:25, 85:10, 85:13, 85:15, 85:22, 86:16, 87:12, 87:17, 87:19, 87:20, 87:22, 87:25, 88:4, 88:13, 88:18,	88:19, 88:20, 88:24, 88:25, 89:2, 89:4, 89:7, 89:23, 90:10, 90:11, 90:13, 90:24, 91:4, 91:5, 91:6, 91:7, 91:8, 91:13, 91:21, 92:14, 92:16, 92:18, 92:19, 92:22, 93:2, 93:3, 93:16, 93:22, 93:23, 93:24, 94:3, 94:11, 94:13, 94:16, 94:17, 94:19, 95:12, 95:23, 96:6, 96:11, 96:15, 96:17, 96:22, 97:2, 97:4, 97:5, 97:12, 97:19, 97:24, 98:18, 99:4, 99:5, 99:9, 99:11, 99:21, 100:5, 100:6, 100:8, 100:13, 100:22, 101:6, 101:10, 101:15, 101:17, 101:21, 102:5, 102:6, 102:7, 102:16, 102:17, 102:18, 102:19, 103:2, 103:3, 103:7, 103:24, 104:2, 104:7, 104:11, 104:18, 104:20, 106:22, 106:23, 107:24, 108:2, 108:7, 108:8, 108:19, 109:7, 109:22, 110:6, 110:7, 110:8, 110:15, 110:17, 110:18, 110:22, 111:10, 111:12, 111:18, 111:19, 111:20, 111:22, 111:25, 112:6, 112:11, 112:13, 112:15, 112:16, 113:3, 113:7, 113:11, 114:14, 114:18, 114:19, 114:22, 114:23, 115:3, 115:5, 115:20, 115:21, 115:22, 115:23, 115:24, 116:12, 116:16, 116:17, 116:20, 117:6, 117:9, 117:13, 117:25, 118:6, 118:9, 118:15, 118:17, 118:20, 118:21, 118:25, 119:4, 119:22, 119:23, 120:4, 120:5, 120:12, 120:18, 120:21, 121:4, 121:10, 121:20, 122:11, 123:17, 123:18, 123:21, 124:2, 124:4, 124:12, 124:19, 124:24, 125:2, 125:3, 125:7, 125:10, 125:13, 125:17, 125:20, 125:25, 126:4, 126:7, 126:11, 126:14, 126:17, 126:18, 126:20, 126:25, 127:2, 127:7, 127:9, 127:13, 127:16, 127:17, 127:21, 127:24, 127:25, 128:4, 128:8, 128:11, 128:14, 128:15, 128:16, 128:19, 128:20, 129:12, 130:10, 130:13, 130:16, 130:18, 131:25, 132:2, 132:8, 132:20, 132:24, 133:8,	133:13, 133:22, 134:2, 134:6, 134:7, 134:8, 134:9, 134:14, 134:18, 134:20, 134:22, 135:4, 135:14, 135:15, 136:2, 136:6, 136:9, 136:11, 136:23, 137:2, 137:3, 137:4, 137:5, 137:6, 137:11, 137:19, 137:21, 138:2, 138:4, 138:5, 138:13, 138:21, 138:22, 138:24, 139:5, 139:7, 140:8, 140:10, 140:16, 140:22, 140:23, 140:24, 141:7, 141:14, 141:19, 141:22, 142:5, 143:10, 143:15, 143:16, 143:25, 144:2, 144:6, 144:14, 145:3, 145:4, 145:5, 145:10, 146:5, 147:7, 147:20, 147:21, 147:22, 147:23, 147:25, 148:2, 148:4, 148:5, 148:10, 148:11, 148:13, 148:17, 148:19, 148:23, 148:24, 149:3, 149:5, 149:12, 150:8, 150:9, 150:13, 150:18, 150:19, 151:6, 151:8, 151:14, 151:15, 151:16, 151:23, 151:24, 152:5, 152:13, 152:24, 153:7, 153:13, 153:16, 153:19, 154:8, 154:9, 154:15, 154:16, 154:20, 154:21, 155:6, 155:13, 155:18, 156:2, 156:16, 157:15, 157:16, 158:13, 159:4, 159:5, 160:16, 160:19, 160:24, 160:25, 161:3, 161:4, 161:9, 161:13, 162:15, 162:22, 162:24, 163:16, 163:17, 163:20, 163:21, 164:5, 164:10, 164:21, 164:23, 164:25, 165:2, 165:8, 165:9, 165:14, 165:15, 165:20, 165:23, 165:24, 166:3, 166:10, 166:11, 166:13, 166:14, 166:15, 166:16, 166:23, 167:9, 167:14, 167:16, 167:18, 167:20, 167:24, 168:6, 168:7, 168:18, 168:24, 169:14, 169:18, 169:20, 169:21, 169:22, 169:25, 170:11, 170:13, 170:21, 171:10, 171:11, 171:12, 171:19, 171:20, 172:2, 172:19, 172:22, 173:8, 173:11, 173:12, 173:16, 174:2, 174:3, 174:13, 174:15, 174:16, 175:6, 175:8, 175:13, 176:19, 176:23, 177:7,	177:8, 177:16, 177:20, 177:21, 177:24, 178:6, 178:7, 178:12, 178:14, 178:24, 179:8, 179:13, 179:14, 179:22, 180:4, 180:5, 180:6, 180:10, 180:13, 180:15, 180:16, 180:22, 181:2, 181:4, 181:6, 181:8, 181:15, 181:20, 181:24, 182:15, 182:19, 182:20, 182:22, 182:23, 182:24, 182:25, 183:6, 183:8, 183:9, 183:18, 183:21, 184:2, 184:18, 184:19, 184:20, 185:2, 185:8, 185:13, 185:15, 185:16, 186:8, 186:9, 186:12, 186:15, 186:20, 186:24, 187:2, 187:5, 187:6, 187:7, 187:9, 187:12, 187:13, 187:14, 187:15, 187:16, 187:24, 188:11, 188:12, 188:15, 188:21, 189:7, 189:12, 189:16, 189:20, 190:5, 190:6, 190:8, 190:10, 190:11, 190:15, 190:16, 190:18, 190:19, 190:20, 190:22, 190:23, 190:24, 191:3, 191:4, 191:8, 191:10, 191:11, 191:14, 191:17, 191:22, 192:2, 192:14, 193:4, 193:8, 193:17, 194:10, 194:11, 194:12, 194:13, 194:14, 194:18, 194:24, 195:2, 195:3, 195:7, 195:10, 195:13, 195:14, 195:15, 195:17, 195:18, 195:22, 195:23, 195:24, 196:3, 196:9, 196:12, 196:14, 196:17, 196:18, 196:20, 196:22, 196:25, 197:4, 197:5, 197:6, 197:7, 197:13, 197:18, 197:20, 197:21, 197:24, 198:3, 198:7, 198:8, 198:12, 198:16, 198:22, 198:24, 199:21, 200:9, 200:10, 200:12, 200:13, 200:14, 200:20, 200:23, 201:2, 201:5, 201:9, 201:10, 201:11, 201:17, 201:18, 202:2, 202:6, 202:7, 202:8, 202:17, 202:22, 203:7, 203:9, 203:11, 203:18, 203:20, 203:22, 204:6, 204:14, 204:17, 204:24, 205:5, 205:13, 205:17, 205:25, 206:15, 206:24, 206:25, 207:4, 207:12, 207:15, 207:20, 207:23, 207:24, 208:5, 208:7,
---	---	---	--

208:10, 208:11, 208:12, 208:14, 208:15, 208:19, 208:22, 209:4, 209:5, 209:12, 210:12, 210:20, 210:21, 211:2, 211:12, 211:15, 211:16, 212:8, 212:10, 212:11, 212:15, 212:16, 212:17, 212:20, 212:21, 213:2, 213:3, 213:6, 213:9, 213:18, 213:19, 214:14, 215:14, 216:6, 216:9, 216:10, 216:16, 216:17, 216:22, 217:4, 217:8, 217:9, 217:10, 217:17, 217:25, 218:2, 218:3, 218:7, 218:11, 218:12, 218:14, 218:18, 218:19, 218:20, 218:21, 219:3, 219:18, 219:20, 219:24, 220:3, 220:6, 220:19, 220:21, 221:2, 221:6, 221:19, 221:20, 221:22, 221:25, 222:11, 222:14, 222:15, 222:22, 222:23, 222:25, 223:4, 223:5, 223:13, 223:17, 223:20, 223:24, 223:25, 224:19, 224:20, 224:24, 225:6, 225:20, 225:21, 225:23, 226:5, 226:15, 226:25, 227:12, 227:17, 228:20, 228:24, 229:8, 229:23, 230:3, 230:18, 230:19, 230:20, 230:21, 230:22, 230:23, 230:24, 230:25, 231:2, 231:4, 231:7, 231:21, 231:23, 232:2, 232:16, 232:19, 232:20, 232:24, 233:2, 233:5, 233:13, 233:14, 233:21, 233:23, 234:2, 234:4, 234:5, 234:6, 234:23, 235:2, 235:5, 235:6, 235:19, 235:25, 236:11, 236:13, 236:15, 236:17, 236:25, 237:13, 237:16, 237:17, 237:23, 237:24, 238:6, 238:9, 238:10, 238:20, 238:25, 239:4, 239:17, 239:18, 239:20, 240:11, 240:13, 240:15, 240:18, 241:5, 241:8, 242:12, 242:13, 242:23, 242:24, 243:3, 243:18, 243:20, 244:3, 244:5, 245:6, 245:10, 245:12, 246:3, 246:6, 246:8, 246:19, 247:6, 247:9, 247:16, 247:18, 248:10, 248:13, 248:19, 249:2, 249:3, 249:4, 249:12, 249:19, 249:25, 250:5,	250:8, 250:13, 251:3, 251:5, 251:7, 251:19, 251:25, 252:5, 252:6, 252:20, 252:23, 253:7, 254:6, 254:9, 254:13, 254:16, 255:3, 255:8, 255:11, 255:14, 255:16, 256:4, 256:6, 256:9, 256:20, 256:24, 257:7, 257:10, 257:15, 257:16, 257:17, 257:21, 257:22, 257:23, 257:25, 258:4, 258:6, 258:16, 258:17, 259:8, 259:20, 259:23, 260:2, 260:13, 260:18, 260:19, 260:25, 261:6, 261:8, 261:10, 261:12, 261:20, 261:24, 262:3, 262:12, 262:13, 262:14, 262:15, 262:16, 262:18, 262:19, 262:22, 262:24, 262:25, 263:8, 263:20, 263:23, 263:25, 264:7, 264:18, 264:20, 265:6, 266:13, 266:15, 266:16, 267:3, 267:12, 267:23, 268:4, 268:5, 268:6, 268:8, 268:9, 268:17, 268:22, 268:24, 268:25, 269:9, 269:10, 269:15, 269:16, 269:22, 270:3, 270:9, 271:2, 271:3, 271:4, 271:10, 271:25, 272:7, 272:8, 273:8, 273:11, 274:12, 275:4, 275:5, 275:15, 275:19, 275:22, 276:3, 276:7, 276:13, 276:14, 276:17, 277:4, 277:5, 277:8, 277:21, 277:22, 277:24, 278:5, 278:6, 278:12, 278:15, 278:22, 279:9, 279:15, 279:16, 279:17, 279:18, 279:21, 280:10, 280:13, 280:15, 281:2, 281:9, 281:10, 281:12, 281:15, 281:19, 281:21, 281:24, 281:25, 282:2, 282:5, 282:10, 282:18, 282:19, 282:22, 282:23, 283:8, 283:11, 283:20, 283:21, 283:22, 283:24, 283:25, 284:2, 284:4, 284:6, 284:7, 284:10, 284:12, 284:16, 284:20, 284:22, 284:25, 285:2, 285:3, 285:5, 285:8, 285:12, 285:13, 285:21, 285:24, 286:11, 286:16, 286:18, 286:19, 287:8, 287:19, 287:24, 288:2, 288:4, 288:5, 288:7, 288:17, 289:6, 289:9, 289:16, 289:18, 289:20, 289:21,	290:4, 290:12, 290:13, 290:17, 290:19, 290:25, 291:3, 291:5, 291:7, 291:16, 291:17, 291:18, 291:22, 292:5, 292:9, 292:12, 292:13, 292:17, 292:22, 292:23, 293:2, 293:3, 293:5, 293:6, 293:19, 293:20, 293:23, 293:24, 293:25, 294:2, 294:7, 294:10, 294:14, 294:17, 294:21, 295:4, 295:7, 295:11, 295:21, 296:13, 296:17, 296:18, 296:25, 297:9, 297:11, 297:12, 297:19, 298:3, 298:6, 298:19, 298:22, 299:4, 299:8, 299:13, 299:19, 299:24, 299:25, 300:7, 300:13, 300:16, 300:17, 300:18, 300:20, 300:23, 300:25, 301:9, 301:10, 301:17, 301:23, 301:24, 302:5, 302:6, 302:7, 302:12, 302:17, 302:19, 303:20, 304:9, 304:12, 304:16, 304:17, 304:25, 305:2, 305:9, 305:19, 305:23, 305:25, 306:5, 306:10, 306:11, 306:13, 307:2, 307:15, 307:16, 307:17, 307:20, 307:23, 308:9, 308:11, 308:18, 310:10, 310:17, 310:18, 310:23, 310:24, 311:3, 311:7, 312:14, 312:17, 312:18, 312:22, 312:23, 312:25, 313:11, 313:12, 313:17, 313:21, 313:24, 314:3, 314:5, 314:11, 314:20, 314:23, 314:24, 315:7, 315:9, 315:14, 315:18, 315:19, 315:20, 316:10, 316:14, 316:20, 316:22, 316:23, 316:24, 317:21, 317:25, 318:5, 318:8, 318:13, 318:17, 318:20, 318:21, 319:2, 320:5, 320:6, 320:8, 320:10, 323:8, 323:10, 323:13, 323:15, 323:17 THE [34] - 5:2, 25:19, 25:23, 62:14, 66:2, 93:14, 147:11, 147:15, 168:22, 181:18, 181:22, 216:13, 233:7, 237:15, 237:19, 241:12, 243:5, 243:9, 255:22, 255:24, 263:24, 264:4, 264:5, 264:9, 273:25, 274:4, 279:23, 281:17, 281:21, 297:10, 297:16, 308:11,	317:23, 318:20 their [6] - 1:10, 3:13, 5:19, 219:5, 271:15, 272:12 them [28] - 21:18, 23:8, 25:14, 45:7, 67:8, 68:10, 72:15, 75:9, 87:17, 89:18, 89:25, 90:5, 90:8, 90:11, 90:20, 92:23, 97:10, 124:11, 129:2, 138:17, 138:20, 147:2, 166:19, 170:4, 258:23, 263:12, 265:17 themselves [1] - 5:19 then [90] - 20:5, 26:7, 26:14, 27:9, 33:10, 39:2, 39:9, 46:16, 52:23, 69:23, 71:21, 74:20, 76:4, 90:22, 91:9, 95:7, 95:24, 101:23, 103:7, 110:21, 115:18, 116:20, 125:6, 128:18, 130:17, 133:13, 142:22, 143:9, 148:10, 154:6, 159:25, 169:13, 169:17, 169:24, 174:12, 180:6, 185:11, 191:4, 191:20, 191:21, 198:9, 205:13, 205:24, 214:25, 215:13, 219:22, 223:20, 226:15, 232:3, 234:18, 235:18, 238:6, 239:3, 240:5, 245:5, 245:15, 246:25, 247:18, 252:15, 254:5, 254:6, 255:16, 268:14, 269:15, 270:14, 271:6, 275:16, 276:15, 278:8, 282:14, 284:22, 285:12, 287:7, 287:12, 288:4, 289:15, 290:13, 290:24, 291:25, 292:7, 292:15, 292:21, 293:18, 295:2, 296:11, 304:8, 304:9, 305:24, 307:8, 316:17 there [71] - 7:4, 16:19, 17:12, 21:10, 45:16, 46:20, 50:25, 52:5, 58:16, 66:16, 70:13, 80:22, 88:21, 90:11, 102:21, 104:8, 108:23, 119:15, 122:10, 124:3, 129:11, 130:24, 133:8, 135:2, 140:6, 140:10, 140:22, 142:12, 142:15, 142:19, 142:20, 142:23, 143:12, 148:20, 172:16, 172:19, 190:4, 196:24, 196:25, 197:6, 202:23, 202:24, 212:18, 215:8, 216:21, 217:23, 219:22, 220:22, 221:4, 227:8, 234:13, 234:16, 235:24, 252:10, 260:17, 263:2, 267:8, 269:3, 284:9, 285:7,
---	---	---	---

<p>288:16, 290:2, 294:4, 295:17, 303:6, 304:14, 304:19, 304:20, 305:2, 306:16, 311:8</p> <p>there's [21] - 102:19, 102:20, 105:13, 136:22, 142:15, 142:22, 158:13, 174:10, 194:19, 196:11, 212:14, 213:11, 214:21, 214:22, 214:23, 215:2, 215:7, 221:5, 227:8, 239:8, 253:18</p> <p>these [32] - 20:7, 67:19, 68:4, 75:23, 86:7, 86:8, 86:9, 91:17, 213:25, 214:6, 248:22, 249:24, 256:3, 256:16, 256:17, 259:18, 259:20, 260:5, 260:22, 264:12, 264:15, 265:4, 265:13, 265:14, 280:9, 282:7, 285:20, 286:7, 287:25, 294:20, 315:7</p> <p>they [50] - 5:20, 34:25, 43:21, 47:4, 50:5, 57:13, 58:12, 58:17, 68:6, 68:8, 72:13, 75:10, 78:9, 90:9, 90:19, 91:24, 92:16, 124:10, 124:14, 132:12, 151:5, 151:14, 151:16, 153:12, 167:4, 169:24, 170:16, 175:10, 176:20, 183:2, 191:2, 198:7, 199:2, 255:4, 256:4, 258:24, 269:23, 271:10, 271:19, 284:6, 287:13, 294:22, 295:5, 298:20, 298:21, 298:24, 312:14, 316:2</p> <p>they're [6] - 64:11, 65:3, 169:21, 258:22, 270:8, 271:22</p> <p>thing [33] - 23:10, 26:13, 33:5, 47:4, 62:12, 64:20, 66:22, 66:24, 68:9, 97:9, 111:23, 128:19, 128:21, 138:21, 148:8, 148:19, 156:3, 166:4, 171:11, 182:24, 217:17, 230:3, 236:11, 236:12, 236:14, 244:12, 275:15, 279:16, 290:19, 293:20, 293:22, 293:25, 313:11</p> <p>things [8] - 23:23, 24:6, 24:10, 24:20, 147:19, 154:18, 158:14, 235:24</p> <p>think [142] - 11:24, 13:7, 14:4, 14:5, 21:8, 21:9, 23:9, 24:17, 28:13, 28:15, 38:25, 41:4, 46:17, 47:8, 47:11, 47:14, 47:18, 47:19, 50:5, 50:25, 54:9, 54:10, 54:22,</p>	<p>55:2, 55:3, 55:17, 59:12, 60:11, 60:15, 62:8, 62:15, 62:19, 65:10, 65:12, 65:15, 65:19, 67:10, 67:17, 70:6, 70:9, 70:14, 71:4, 94:3, 94:22, 95:18, 95:22, 99:23, 105:25, 107:21, 109:2, 109:15, 115:15, 119:18, 121:10, 121:17, 123:3, 123:11, 132:22, 138:9, 139:2, 139:8, 143:3, 143:12, 144:2, 144:13, 144:15, 144:20, 145:2, 145:5, 145:22, 148:16, 150:25, 155:13, 156:11, 156:15, 156:22, 160:12, 162:14, 162:25, 163:15, 171:15, 171:17, 171:20, 171:24, 172:20, 173:5, 174:17, 179:24, 183:15, 185:23, 186:6, 189:4, 189:9, 197:9, 202:7, 202:21, 203:7, 203:10, 203:17, 216:2, 216:20, 220:8, 221:11, 225:15, 227:24, 229:20, 229:21, 231:12, 236:18, 239:19, 240:24, 248:5, 250:20, 253:21, 259:15, 266:10, 266:22, 270:4, 271:21, 278:25, 280:20, 283:23, 284:3, 293:24, 294:3, 298:24, 300:4, 302:20, 302:21, 303:16, 304:5, 305:12, 312:4, 312:5, 314:15, 315:14, 316:6, 316:17, 316:18</p> <p>thinking [5] - 52:22, 140:14, 195:23, 196:2, 196:6</p> <p>third [6] - 148:19, 223:5, 223:17, 231:23, 252:16, 285:5</p> <p>this [276] - 5:7, 5:10, 8:21, 13:3, 14:11, 17:24, 19:9, 21:4, 21:14, 31:13, 33:8, 36:5, 49:3, 49:16, 52:14, 53:8, 56:2, 57:17, 58:2, 58:11, 58:22, 60:3, 61:2, 64:8, 67:17, 67:20, 68:2, 69:9, 69:15, 69:25, 70:2, 70:9, 70:18, 71:4, 71:5, 72:5, 72:9, 72:11, 82:18, 85:5, 85:18, 87:25, 89:15, 90:21, 90:25, 91:14, 94:8, 95:25, 96:17, 116:21, 128:21, 135:4, 141:19, 146:16, 146:19, 146:23, 149:21, 155:14, 156:3, 156:4, 158:15, 161:19, 164:4, 166:8, 170:21, 174:17, 174:21, 174:24, 178:11, 178:13, 181:7, 181:12,</p>	<p>182:24, 183:3, 183:4, 185:25, 186:2, 196:15, 197:4, 198:20, 199:20, 200:16, 203:3, 203:6, 203:12, 204:10, 204:17, 204:19, 204:22, 206:22, 206:24, 207:4, 207:7, 207:9, 207:13, 207:25, 208:2, 208:4, 208:10, 209:2, 209:11, 209:18, 209:22, 210:6, 211:25, 214:21, 217:17, 217:18, 217:21, 218:6, 219:9, 220:2, 220:20, 220:21, 221:17, 221:19, 221:20, 221:25, 222:4, 222:8, 222:12, 222:16, 222:20, 222:21, 223:2, 223:7, 223:9, 224:2, 224:15, 225:8, 225:14, 226:5, 227:11, 227:24, 231:22, 231:23, 232:22, 232:24, 233:5, 233:15, 233:24, 235:21, 236:25, 237:2, 238:19, 238:21, 239:7, 239:19, 240:21, 241:2, 241:3, 241:4, 241:8, 241:17, 241:19, 241:25, 242:3, 242:4, 242:9, 242:21, 242:23, 243:3, 243:11, 243:14, 244:8, 246:2, 246:9, 246:13, 247:8, 248:8, 248:13, 248:14, 249:2, 249:5, 249:24, 251:23, 253:11, 253:14, 254:13, 255:17, 255:20, 255:25, 256:9, 260:2, 260:9, 262:7, 263:9, 263:17, 263:18, 263:23, 267:9, 267:13, 270:4, 270:22, 270:25, 271:10, 271:15, 271:19, 272:6, 273:3, 273:6, 273:11, 273:16, 273:19, 273:22, 273:24, 274:3, 274:12, 274:18, 275:4, 277:2, 277:3, 277:8, 277:14, 277:21, 278:4, 278:9, 278:15, 278:19, 279:4, 279:7, 279:15, 283:6, 283:11, 283:16, 283:19, 284:2, 284:18, 285:11, 285:13, 285:18, 285:24, 287:23, 288:9, 293:19, 293:22, 296:5, 296:9, 296:25, 297:4, 299:12, 299:19, 300:5, 301:6, 302:16, 303:15, 303:21, 303:24, 304:2, 304:4, 304:5, 305:12, 306:8, 306:18, 307:5, 307:14, 308:13, 308:20, 309:5, 311:13, 312:21, 313:14, 313:20, 314:8, 317:4, 318:5,</p>	<p>318:13, 319:3, 320:19, 323:15, 323:18, 323:20</p> <p>This [2] - 204:12, 318:21</p> <p>those [19] - 205:8, 214:2, 220:25, 221:3, 244:15, 251:22, 254:25, 258:16, 268:11, 268:23, 270:18, 278:21, 278:23, 286:13, 286:15, 300:17, 315:11, 316:7</p> <p>though [5] - 17:11, 72:6, 74:24, 132:12, 191:15</p> <p>thought [15] - 64:10, 75:9, 75:16, 107:18, 139:16, 139:17, 144:23, 158:8, 160:4, 170:20, 173:7, 178:11, 212:21, 250:11, 261:5</p> <p>threatening [1] - 204:8</p> <p>three [21] - 26:5, 38:4, 38:24, 73:19, 73:21, 82:19, 83:4, 83:5, 84:8, 190:17, 190:18, 190:24, 194:13, 236:25, 249:13, 249:14, 249:19, 249:25, 251:22, 252:5, 311:3</p> <p>three-phase [1] - 194:13</p> <p>through [17] - 1:10, 3:12, 58:19, 68:10, 69:15, 71:12, 87:17, 99:15, 104:9, 182:20, 195:22, 256:12, 257:16, 259:22, 270:17, 286:12, 300:10</p> <p>throughout [2] - 175:8, 175:13</p> <p>Thursday [1] - 205:10</p> <p>ticket [3] - 34:4, 87:5, 132:16</p> <p>ticketed [3] - 30:11, 30:16, 152:2</p> <p>ticketing [3] - 94:9, 94:14, 95:7</p> <p>tickets [4] - 33:25, 85:24, 86:3, 86:8</p> <p>TIME [2] - 1:16, 2:3</p> <p>time [163] - 4:22, 5:3, 12:17, 14:12, 16:13, 16:21, 17:12, 19:19, 20:12, 22:25, 23:9, 23:10, 23:19, 26:10, 27:25, 29:6, 32:3, 32:7, 32:10, 35:7, 35:12, 35:20, 36:16, 37:4, 38:25, 41:7, 41:10, 41:11, 45:19, 46:18, 46:20, 49:7, 51:16, 54:10, 54:13, 54:21, 55:2, 55:11, 68:17, 71:24, 74:15, 75:8, 75:13, 75:14, 75:22, 79:3, 79:6, 81:14, 85:4, 85:8, 88:12, 100:8, 101:6, 101:10, 106:22, 108:22, 109:22, 110:6,</p>
---	---	--	--

110:18, 111:10, 113:11, 113:13, 113:21, 114:14, 114:18, 114:21, 115:11, 115:24, 118:25, 120:5, 122:11, 125:10, 125:20, 126:14, 126:21, 126:24, 126:25, 136:6, 137:14, 140:23, 145:3, 145:6, 147:10, 148:17, 148:21, 148:23, 153:13, 156:2, 156:3, 156:17, 158:13, 158:14, 159:5, 160:24, 162:9, 165:2, 165:12, 165:25, 168:18, 169:20, 171:19, 171:20, 173:8, 175:4, 175:10, 180:21, 183:21, 184:2, 185:2, 186:11, 186:17, 187:6, 187:12, 187:14, 189:5, 190:8, 190:20, 191:3, 194:4, 194:10, 194:13, 194:24, 195:7, 195:14, 195:16, 195:24, 196:18, 198:6, 198:16, 201:17, 202:22, 203:7, 203:22, 209:12, 213:3, 215:18, 220:6, 228:20, 229:8, 229:19, 229:23, 230:21, 230:23, 235:6, 235:25, 236:18, 244:3, 273:20, 281:9, 281:13, 284:11, 287:10, 287:24, 290:12, 293:24, 299:14, 301:6, 310:11, 318:17, 318:20, 320:10 timeline [1] - 181:12 times [11] - 13:6, 23:5, 23:7, 26:6, 47:8, 58:3, 58:5, 80:23, 113:9, 142:6, 187:24 Tino [1] - 123:23 titled [1] - 234:6 to [723] - 2:8, 4:10, 4:11, 4:21, 4:22, 6:22, 6:24, 7:6, 7:21, 7:24, 7:25, 8:2, 8:9, 8:10, 8:11, 8:13, 8:17, 8:22, 8:23, 10:5, 10:13, 14:25, 17:3, 17:11, 17:13, 17:16, 17:22, 19:15, 20:10, 21:14, 21:15, 21:21, 22:3, 22:4, 22:8, 22:25, 24:9, 25:17, 26:2, 26:3, 26:10, 27:15, 30:4, 30:23, 31:3, 31:8, 31:22, 31:25, 32:4, 33:3, 33:14, 35:9, 35:17, 35:20, 35:25, 36:21, 37:8, 37:11, 37:21, 38:8, 39:22, 43:4, 43:15, 43:16, 46:22, 47:2, 48:12, 49:22, 49:24, 50:2, 50:3, 50:12, 50:23, 50:24, 51:2, 51:18, 52:23, 53:6, 53:12, 53:17, 53:25, 54:4,	54:5, 54:11, 54:12, 54:20, 55:4, 55:11, 55:17, 55:18, 56:3, 56:4, 57:7, 57:12, 57:21, 58:7, 58:12, 58:13, 58:16, 63:4, 63:7, 63:8, 63:10, 63:20, 63:23, 64:6, 64:22, 64:25, 65:4, 65:16, 65:20, 66:3, 66:4, 66:7, 66:11, 66:15, 66:23, 67:2, 67:8, 68:10, 68:15, 68:21, 69:8, 69:15, 70:3, 70:9, 70:18, 71:4, 71:5, 72:5, 72:10, 72:14, 73:10, 73:12, 73:17, 73:19, 75:9, 75:10, 75:20, 76:4, 76:7, 77:14, 77:15, 77:21, 77:23, 78:3, 78:15, 78:18, 78:19, 79:24, 81:16, 82:13, 82:21, 87:17, 88:15, 89:2, 89:4, 89:6, 90:13, 90:16, 91:14, 91:23, 92:5, 92:8, 92:15, 92:21, 92:24, 93:7, 93:12, 94:15, 95:9, 95:13, 96:8, 96:11, 96:21, 96:22, 97:4, 97:6, 97:7, 97:10, 97:12, 98:8, 98:14, 99:12, 99:13, 100:5, 100:15, 100:22, 101:22, 102:9, 104:7, 104:9, 104:18, 105:9, 105:23, 107:3, 107:7, 107:11, 107:15, 109:3, 109:4, 109:9, 109:11, 109:12, 109:16, 109:17, 109:21, 111:18, 111:19, 112:6, 113:7, 113:10, 113:13, 113:20, 115:21, 115:22, 116:11, 116:12, 116:14, 116:18, 117:13, 117:25, 118:6, 118:20, 120:8, 120:24, 121:4, 121:15, 122:7, 123:4, 123:18, 124:2, 125:2, 125:3, 125:6, 126:15, 127:18, 128:11, 128:14, 128:15, 128:16, 128:19, 128:24, 129:17, 130:13, 130:16, 130:18, 130:19, 130:20, 130:21, 131:10, 131:22, 132:8, 132:9, 132:13, 132:16, 132:17, 132:20, 133:7, 133:13, 133:22, 134:2, 134:6, 134:7, 134:14, 134:18, 135:24, 136:2, 136:3, 136:9, 136:22, 136:23, 137:19, 137:20, 140:16, 140:17, 140:21, 142:5, 142:19, 143:6, 143:23, 144:10, 144:16, 144:17, 144:18, 144:19, 145:4, 145:5, 145:25, 147:5, 147:8, 147:18, 147:19, 148:12, 149:4, 150:18,	151:14, 151:24, 152:5, 152:14, 152:17, 154:6, 154:18, 154:20, 155:15, 155:19, 155:22, 156:3, 156:14, 156:22, 157:3, 157:6, 157:24, 158:3, 158:4, 158:5, 158:9, 158:14, 158:15, 158:16, 158:20, 158:23, 159:4, 159:11, 159:14, 159:18, 160:2, 160:6, 160:7, 160:8, 160:19, 160:21, 161:5, 161:14, 161:15, 161:25, 162:4, 164:22, 165:8, 165:9, 165:13, 168:11, 168:17, 169:10, 169:14, 169:16, 169:22, 169:25, 170:10, 170:25, 171:5, 172:4, 173:10, 173:11, 173:12, 174:9, 175:6, 175:14, 175:23, 175:24, 176:5, 176:15, 177:11, 178:13, 178:25, 179:6, 179:20, 179:21, 180:4, 180:5, 180:6, 180:13, 180:21, 181:8, 182:8, 182:9, 182:12, 182:14, 182:16, 182:20, 182:21, 182:23, 182:24, 183:2, 183:3, 183:5, 183:12, 183:16, 183:22, 184:4, 184:9, 184:11, 184:12, 184:20, 185:19, 185:24, 186:8, 186:18, 186:20, 186:24, 187:5, 187:15, 188:12, 188:20, 189:6, 191:18, 191:21, 192:3, 192:17, 192:23, 193:9, 193:14, 194:6, 195:4, 196:18, 197:6, 198:8, 198:19, 199:5, 199:6, 200:12, 200:14, 200:20, 200:23, 201:9, 201:16, 201:24, 202:5, 202:6, 202:7, 202:8, 203:19, 205:5, 205:11, 205:13, 205:20, 206:10, 208:5, 208:7, 208:12, 209:23, 210:4, 210:6, 210:10, 210:16, 210:25, 211:16, 213:17, 214:13, 215:9, 215:17, 215:22, 215:24, 216:8, 216:10, 216:21, 216:22, 216:25, 217:4, 217:9, 217:23, 218:2, 218:4, 218:10, 218:14, 218:19, 218:20, 219:17, 219:20, 219:24, 220:5, 220:13, 220:19, 221:12, 222:17, 223:4, 223:8, 225:11, 225:18, 225:24, 226:13, 226:21, 227:5, 227:23,	228:13, 228:14, 228:21, 228:24, 229:7, 229:8, 229:17, 229:23, 230:15, 231:2, 231:7, 231:15, 231:21, 231:23, 232:18, 233:25, 235:4, 235:8, 235:9, 235:11, 235:13, 235:14, 235:19, 235:20, 236:4, 236:18, 236:22, 236:24, 237:10, 237:11, 237:22, 238:3, 238:5, 238:11, 238:15, 239:4, 239:17, 240:11, 246:7, 246:17, 248:21, 248:25, 249:2, 249:8, 249:15, 249:16, 251:11, 251:12, 251:15, 251:19, 251:22, 251:24, 251:25, 253:7, 253:24, 254:2, 254:6, 254:19, 254:22, 255:8, 256:19, 256:22, 258:22, 259:8, 261:15, 261:18, 261:23, 263:13, 263:15, 263:16, 263:25, 265:9, 265:25, 266:9, 267:10, 267:23, 268:4, 268:14, 270:22, 271:6, 271:9, 271:12, 271:22, 272:7, 272:8, 272:17, 272:20, 273:21, 274:22, 275:3, 275:5, 275:12, 276:7, 276:8, 276:14, 277:24, 278:21, 278:22, 279:15, 279:16, 279:21, 280:14, 281:6, 281:25, 282:10, 282:14, 283:20, 287:5, 287:12, 287:13, 287:15, 288:9, 288:17, 288:22, 289:2, 289:6, 289:8, 289:15, 290:14, 290:19, 291:6, 291:16, 293:14, 293:19, 293:20, 293:25, 294:2, 294:13, 294:23, 294:24, 295:6, 295:7, 296:2, 296:4, 296:8, 296:10, 296:18, 296:22, 299:7, 299:12, 299:18, 300:9, 301:4, 301:7, 302:22, 302:25, 303:7, 303:8, 303:10, 303:12, 303:21, 304:9, 304:16, 304:17, 304:23, 305:13, 305:18, 305:20, 305:23, 305:25, 306:3, 306:5, 306:12, 306:18, 306:23, 307:10, 307:22, 308:4, 309:6, 309:18, 310:8, 310:10, 311:11, 312:13, 312:14, 312:16, 312:17, 313:5, 313:10, 313:11, 315:2, 315:15, 315:21, 316:3, 317:18, 318:7, 320:5,
---	---	---	---

<p>320:18, 323:15 today [17] - 6:23, 9:2, 10:5, 10:8, 10:13, 12:11, 21:14, 21:20, 21:24, 21:25, 22:6, 22:8, 22:21, 22:24, 82:13, 299:9, 318:12 together [3] - 81:4, 81:8, 91:24 told [27] - 36:22, 51:17, 92:23, 93:6, 95:9, 95:13, 100:9, 100:15, 116:10, 117:17, 129:24, 130:4, 146:4, 177:15, 177:18, 177:19, 177:24, 192:14, 196:20, 197:19, 205:15, 226:14, 238:5, 276:24, 298:20, 312:21 too [6] - 73:16, 109:14, 157:19, 212:15, 216:20, 282:24 took [19] - 17:4, 25:6, 43:21, 113:9, 115:21, 142:25, 151:14, 191:14, 228:23, 260:25, 265:3, 265:14, 284:6, 291:5, 295:4, 295:5, 310:21, 314:8 top [13] - 19:24, 223:2, 231:2, 234:4, 242:12, 243:24, 249:12, 252:5, 252:8, 285:12, 286:19, 288:5, 311:7 total [1] - 26:5 totalled [1] - 32:13 touched [1] - 146:8 tour [11] - 38:7, 38:9, 38:14, 39:7, 39:14, 77:13, 186:13, 205:11, 206:8, 206:9, 206:10 toward [1] - 300:20 towards [8] - 91:18, 229:3, 229:4, 234:4, 302:19, 302:25, 304:11, 305:19 TPO [4] - 215:18, 226:10, 237:25, 252:11 track [1] - 289:15 traffic [40] - 39:15, 39:23, 40:5, 40:11, 40:23, 41:14, 41:16, 77:12, 78:3, 78:5, 78:14, 84:14, 84:15, 90:10, 94:23, 99:5, 99:9, 99:19, 104:9, 187:14, 194:15, 194:20, 194:23, 194:24, 195:22, 226:12, 227:3, 227:13, 231:13, 231:14, 231:19, 238:3, 283:3, 283:4, 284:14, 306:5, 306:19, 306:24, 310:23 training [2] - 34:22, 90:13 transcript [5] - 8:16, 8:18, 8:24, 320:9 transferred [8] - 36:18,</p>	<p>36:21, 36:22, 36:24, 39:18, 116:11, 116:12, 128:11 transport [2] - 117:23, 118:6 transported [3] - 117:22, 117:25, 124:2 travel [3] - 74:5, 84:3, 84:5 traveling [12] - 32:16, 88:18, 91:12, 103:11, 103:19, 104:22, 110:21, 150:8, 150:9, 160:12, 300:17, 302:18 treat [1] - 215:23 treated [6] - 215:24, 216:8, 217:2, 217:4, 217:12, 217:25 treatment [21] - 114:4, 114:10, 122:2, 122:8, 122:14, 122:21, 122:25, 171:9, 173:16, 246:20, 248:11, 248:15, 248:16, 248:20, 251:4, 251:16, 251:18, 254:22, 258:23, 305:13, 321:15 tremendous [1] - 235:13 trial [7] - 4:22, 8:22, 13:19, 13:20, 14:3, 51:17, 57:22 tried [3] - 97:6, 116:18, 144:14 truck [1] - 74:16 trucks [3] - 70:24, 71:5, 71:7 true [5] - 1:11, 3:14, 201:20, 320:9, 323:12 truth [3] - 10:5, 10:13, 320:5 Try [1] - 107:11 try [7] - 97:7, 112:6, 113:7, 158:24, 160:8, 289:15, 299:12 trying [11] - 50:3, 75:9, 75:10, 91:14, 109:17, 235:8, 271:22, 293:14, 303:6, 303:7, 303:10 turn [19] - 97:25, 98:12, 98:15, 98:18, 99:22, 101:15, 101:23, 103:7, 107:14, 108:11, 108:15, 108:19, 125:14, 130:20, 228:13, 228:14, 288:4, 302:22, 302:23 turned [9] - 97:20, 97:23, 104:10, 106:11, 156:6, 210:6, 304:11, 305:18, 315:16 turning [9] - 168:14, 205:5, 228:25, 268:14, 271:6, 277:24, 282:14, 290:13, 302:24 turns [2] - 103:8, 113:8 twenty [1] - 134:4</p>	<p>twice [2] - 188:2, 188:4 twist [3] - 230:10, 230:11, 310:9 twisting [2] - 229:5, 309:15 two [54] - 26:6, 28:11, 28:13, 45:24, 68:5, 69:24, 71:13, 83:20, 91:11, 91:14, 91:17, 91:21, 92:14, 92:19, 92:21, 99:11, 103:14, 103:16, 109:16, 121:11, 135:7, 143:6, 143:23, 144:16, 147:6, 149:5, 150:19, 151:3, 153:9, 153:17, 156:22, 159:14, 190:7, 192:21, 205:9, 212:10, 214:18, 214:21, 214:23, 217:21, 218:14, 218:25, 227:20, 227:23, 248:18, 252:8, 275:17, 275:18, 275:19, 279:10, 283:23, 299:3, 315:19 two-way [3] - 83:20, 103:14, 103:16 type [5] - 74:4, 78:25, 211:22, 234:19, 258:20 typed [1] - 223:25 typically [1] - 12:2 typo [1] - 227:8</p>	<p>254:20, 256:20, 258:23, 260:9, 264:21, 265:16, 266:13, 266:15, 268:5, 273:7, 274:18, 275:12, 275:19, 277:17, 279:12, 279:13, 283:3, 284:6, 284:7, 284:10, 286:16, 295:21, 300:25, 302:25, 304:10, 307:16, 309:2, 318:4 uh-huh [6] - 143:2, 165:10, 169:23, 187:10, 187:18, 235:3 Um [2] - 206:22, 277:3 um [695] - 11:15, 12:24, 14:8, 14:15, 14:17, 15:12, 16:17, 17:15, 18:10, 19:9, 19:13, 21:4, 21:13, 22:11, 22:13, 22:19, 23:15, 24:9, 24:14, 24:16, 25:6, 26:16, 27:23, 28:16, 28:22, 29:10, 31:3, 31:12, 31:21, 32:6, 33:7, 35:6, 35:10, 35:11, 35:16, 36:7, 38:5, 38:22, 39:6, 39:15, 39:17, 39:20, 39:23, 40:17, 40:24, 43:2, 43:12, 44:25, 46:2, 46:11, 46:16, 46:21, 47:22, 48:5, 48:25, 49:18, 49:24, 50:10, 51:20, 52:7, 53:3, 53:19, 54:24, 55:14, 55:21, 55:22, 56:8, 56:11, 57:9, 57:16, 57:20, 58:18, 59:9, 60:6, 60:10, 60:15, 60:18, 60:25, 61:5, 61:16, 61:20, 61:24, 62:3, 62:10, 62:22, 62:25, 63:2, 63:14, 63:22, 64:8, 64:12, 64:18, 64:24, 65:6, 66:9, 66:14, 67:18, 68:4, 68:13, 68:21, 68:24, 69:15, 69:23, 71:12, 71:13, 72:4, 72:5, 72:9, 72:25, 73:14, 74:11, 75:6, 75:20, 76:5, 76:17, 77:10, 77:14, 77:21, 77:25, 79:8, 79:15, 79:18, 79:23, 80:6, 80:14, 81:21, 82:17, 83:9, 83:18, 85:7, 86:7, 86:16, 86:25, 88:15, 88:17, 89:11, 90:12, 90:15, 90:21, 91:11, 91:15, 91:16, 91:20, 92:3, 92:14, 92:18, 92:19, 93:15, 93:19, 94:2, 94:22, 95:17, 96:25, 97:9, 97:11, 97:17, 99:14, 99:21, 99:25, 100:4, 100:10, 100:25, 101:13, 101:17, 103:6, 103:19, 104:2, 104:5, 104:13, 104:19, 104:21, 105:6, 105:9, 105:11, 105:16, 106:10, 106:25, 107:9, 107:12, 107:17, 108:10, 108:18, 109:2,</p>
U			
<p>U [10] - 4:2, 6:7, 98:18, 99:22, 101:15, 103:7, 108:11, 108:19, 125:14, 130:20 u [2] - 98:12, 301:21 u-turn [1] - 98:12 U-turn [8] - 98:18, 99:22, 101:15, 103:7, 108:11, 108:19, 125:14, 130:20 UF49 [1] - 178:18 uh [93] - 51:11, 61:20, 68:21, 77:6, 77:19, 90:25, 91:18, 97:22, 101:23, 108:7, 113:9, 116:7, 116:11, 116:17, 118:12, 118:15, 122:12, 130:14, 131:13, 140:19, 143:2, 147:17, 151:9, 156:23, 157:23, 162:9, 164:3, 165:10, 168:25, 169:23, 176:25, 186:14, 187:3, 187:10, 187:11, 187:18, 189:12, 191:22, 193:17, 194:19, 196:9, 198:17, 200:3, 200:5, 200:17, 202:5, 203:3, 210:4, 212:7, 212:10, 213:18, 216:5, 223:16, 230:6, 230:21, 231:2, 235:3, 237:12, 239:14, 243:25, 244:5, 250:17, 250:19,</p>			

<p>109:15, 109:24, 110:10, 110:16, 110:19, 111:2, 111:5, 111:7, 111:11, 111:12, 111:14, 111:17, 111:22, 111:23, 112:4, 112:8, 112:11, 112:13, 112:25, 113:12, 113:24, 114:3, 114:15, 114:20, 115:5, 115:8, 115:15, 115:20, 115:23, 116:8, 116:13, 117:8, 117:12, 117:16, 117:23, 118:5, 118:8, 118:20, 118:24, 119:9, 119:18, 120:2, 120:7, 120:22, 121:14, 121:17, 121:23, 122:4, 122:19, 123:3, 123:15, 124:9, 124:15, 125:8, 126:3, 127:23, 128:7, 128:22, 129:2, 129:8, 130:8, 130:23, 131:2, 131:4, 131:9, 131:20, 132:2, 132:7, 132:15, 132:23, 133:6, 134:17, 135:14, 135:18, 135:21, 136:8, 136:14, 136:25, 137:9, 137:17, 137:20, 138:3, 138:9, 138:14, 139:3, 139:12, 139:16, 139:21, 140:8, 141:6, 141:18, 141:24, 141:25, 142:2, 142:9, 142:18, 143:9, 144:22, 145:20, 145:24, 146:10, 146:15, 146:21, 149:3, 149:10, 149:23, 150:7, 150:11, 150:25, 151:5, 151:15, 151:23, 152:4, 152:10, 152:13, 152:19, 153:20, 154:6, 154:8, 154:17, 154:23, 155:4, 155:9, 155:12, 155:17, 156:6, 156:8, 156:21, 157:18, 157:23, 158:2, 158:7, 158:19, 159:13, 159:17, 160:15, 160:18, 161:3, 161:17, 161:21, 161:22, 162:3, 162:14, 162:21, 162:25, 163:9, 163:19, 163:20, 164:13, 164:19, 165:4, 166:7, 166:11, 168:5, 169:9, 170:7, 170:20, 171:7, 172:15, 172:21, 173:3, 173:9, 173:15, 173:25, 174:8, 174:12, 174:16, 174:17, 174:24, 175:12, 176:14, 176:19, 178:5, 178:11, 178:12, 178:17, 178:23, 179:6, 179:14, 179:15, 179:22, 180:19, 181:7, 182:9, 183:11, 183:15, 185:3, 185:15,</p>	<p>185:23, 186:6, 186:11, 186:16, 186:19, 187:4, 187:6, 187:8, 187:15, 187:19, 187:23, 188:3, 188:6, 188:10, 188:14, 188:23, 189:7, 189:14, 190:13, 191:4, 191:8, 191:17, 191:25, 192:10, 192:13, 192:16, 192:23, 193:7, 193:8, 193:11, 194:5, 194:10, 194:25, 195:9, 196:8, 196:14, 197:3, 197:10, 197:18, 197:22, 198:11, 198:17, 199:19, 199:25, 200:2, 201:4, 201:8, 201:19, 201:20, 205:2, 206:12, 206:15, 206:16, 207:12, 207:15, 208:3, 208:9, 208:14, 208:25, 209:7, 209:10, 209:20, 210:17, 211:19, 211:24, 212:4, 212:14, 212:16, 212:20, 213:10, 213:11, 213:24, 214:20, 214:23, 214:25, 215:13, 216:2, 216:6, 216:11, 216:24, 220:7, 221:4, 221:11, 221:15, 221:16, 222:12, 222:16, 223:4, 224:6, 224:10, 224:21, 224:23, 225:4, 225:7, 225:13, 225:18, 225:19, 226:4, 226:24, 226:25, 227:10, 227:11, 227:20, 227:24, 228:6, 228:9, 229:21, 230:12, 231:8, 232:2, 232:14, 233:9, 233:13, 233:18, 234:3, 234:4, 234:9, 234:25, 236:25, 237:21, 237:22, 238:15, 238:18, 239:7, 239:8, 239:12, 239:21, 240:14, 240:22, 240:23, 242:12, 243:10, 243:14, 243:22, 244:7, 244:17, 244:21, 245:14, 245:21, 245:23, 246:12, 246:13, 247:13, 248:7, 248:19, 248:25, 249:8, 249:9, 249:13, 249:19, 250:7, 250:13, 251:15, 251:21, 252:15, 252:23, 253:6, 253:10, 254:5, 254:6, 254:8, 254:12, 254:15, 254:18, 255:2, 255:10, 256:15, 256:19, 256:22, 257:3, 257:4, 257:11, 257:13, 257:14, 258:9, 258:21, 258:22, 259:6, 259:11, 259:12, 259:17, 259:20, 260:4, 260:14, 260:22, 262:24, 263:15,</p>	<p>264:18, 264:19, 265:3, 265:9, 265:12, 266:11, 266:19, 266:22, 267:9, 267:19, 267:25, 268:4, 268:17, 268:18, 268:21, 269:12, 269:15, 269:21, 270:14, 270:25, 271:2, 271:6, 271:9, 271:11, 271:14, 271:21, 272:17, 273:2, 273:6, 273:20, 274:5, 274:10, 274:11, 274:21, 275:16, 276:3, 276:6, 276:15, 276:16, 276:25, 277:20, 277:21, 278:3, 278:7, 279:7, 279:10, 280:2, 280:10, 280:21, 280:25, 281:3, 282:8, 282:17, 282:23, 283:16, 283:19, 284:17, 285:2, 286:7, 286:10, 286:18, 287:2, 287:7, 287:8, 288:5, 290:3, 290:8, 291:9, 291:21, 292:21, 293:13, 293:24, 294:7, 295:20, 296:11, 296:24, 297:18, 298:5, 298:9, 299:2, 299:7, 299:11, 299:14, 299:23, 300:2, 300:13, 301:5, 301:16, 301:25, 303:15, 304:4, 304:10, 304:12, 305:4, 305:10, 305:13, 306:4, 306:7, 306:14, 307:14, 307:16, 308:2, 310:2, 310:12, 310:13, 312:10, 312:19, 312:20, 312:21, 313:9, 313:19, 314:14, 314:25, 315:2, 315:10, 316:5, 316:23, 317:12, 317:13, 318:3, 318:9, 318:10 unclear [1] - 238:19 uncovered [1] - 181:24 under [10] - 12:22, 12:25, 13:7, 13:10, 14:6, 32:3, 32:9, 73:3, 84:22, 254:25 undergone [1] - 298:14 underlying [1] - 55:15 understand [15] - 6:25, 7:16, 7:21, 8:21, 10:10, 52:7, 59:10, 72:7, 74:25, 99:3, 105:10, 189:20, 198:22, 210:12, 219:10 understanding [16] - 63:3, 67:7, 70:2, 70:18, 73:15, 82:23, 98:25, 102:10, 242:3, 288:15, 290:2, 291:10, 291:14, 292:12, 294:14, 299:3 unfair [1] - 220:19 uniform [9] - 38:18, 73:10, 81:19, 81:20, 101:21,</p>	<p>200:12, 205:16, 226:14, 238:5 unit [6] - 16:13, 16:14, 37:20, 38:3, 39:11, 41:5 UNITED [1] - 1:2 United [1] - 5:13 units [1] - 35:10 unknown [2] - 1:12, 3:14 unless [1] - 182:13 unloading [1] - 153:12 unmarked [4] - 16:16, 80:9, 80:10, 141:8 unsafe [1] - 202:21 unsigned [1] - 4:14 until [6] - 19:17, 110:8, 139:6, 145:3, 201:6, 251:6 unusual [1] - 178:19 up [45] - 19:20, 19:23, 20:11, 50:6, 89:2, 92:11, 97:9, 97:14, 97:24, 107:7, 109:3, 109:10, 111:18, 128:8, 144:15, 157:8, 158:4, 159:18, 160:2, 165:22, 167:14, 182:14, 182:17, 182:23, 184:4, 189:22, 200:6, 201:25, 223:9, 231:17, 232:10, 236:3, 236:6, 236:19, 263:10, 263:12, 271:11, 290:23, 292:8, 292:13, 300:24, 304:13, 313:10, 314:8, 318:17 upon [2] - 4:17, 226:20 upper [2] - 176:20, 268:22 upset [2] - 236:7, 236:21 us [13] - 107:22, 108:3, 108:9, 118:22, 139:13, 178:13, 182:20, 183:3, 187:11, 215:9, 219:17, 268:24, 309:3 use [5] - 8:2, 9:12, 235:14, 263:25, 267:19 used [11] - 4:14, 141:10, 142:2, 180:3, 232:6, 232:12, 234:10, 235:10, 239:14, 239:20, 267:22 using [4] - 235:13, 239:18, 239:25, 301:6</p>
V			
<p>vague [2] - 51:5, 317:11 vaguely [1] - 51:3 van [2] - 153:10, 153:19 vehicle [124] - 15:19, 15:22, 16:17, 16:22, 18:13, 18:16, 19:20, 27:25, 37:22, 44:13, 62:23, 63:24, 66:8, 66:12, 68:16, 69:10, 69:14, 69:20, 69:25, 70:19, 70:20, 71:19,</p>			

<p>72:2, 73:9, 74:5, 74:12, 74:14, 75:22, 80:7, 80:15, 89:19, 90:8, 92:24, 93:4, 94:10, 94:11, 98:9, 98:18, 99:22, 102:8, 102:11, 106:18, 109:3, 109:12, 110:9, 111:9, 112:15, 113:3, 119:20, 120:4, 120:12, 140:16, 141:7, 141:11, 142:2, 142:12, 142:19, 143:23, 146:3, 146:8, 148:3, 148:4, 154:20, 154:24, 155:6, 160:20, 161:22, 168:6, 189:8, 189:22, 200:11, 200:20, 200:23, 201:25, 204:8, 208:19, 208:20, 208:21, 208:22, 211:25, 212:19, 213:2, 213:6, 214:15, 214:18, 214:21, 214:23, 215:3, 215:21, 218:14, 218:18, 218:19, 218:20, 219:13, 259:21, 260:13, 260:18, 261:7, 261:9, 262:12, 263:9, 266:11, 266:12, 267:10, 267:13, 269:22, 270:18, 270:23, 271:4, 271:12, 271:23, 297:21, 300:25, 301:9, 301:13, 301:24, 301:25, 302:5, 302:6, 304:11, 306:21, 308:3, 312:18, 322:10</p> <p>vehicles [2] - 40:25, 70:4</p> <p>veins [1] - 167:24</p> <p>verbally [1] - 7:11</p> <p>verify [2] - 115:21, 129:9</p> <p>verifying [1] - 245:10</p> <p>versus [1] - 298:3</p> <p>very [14] - 51:5, 190:15, 194:10, 196:17, 223:13, 223:21, 230:22, 242:12, 264:18, 284:23, 286:19, 289:18, 316:22</p> <p>video [44] - 22:22, 24:24, 24:25, 25:3, 25:7, 25:9, 26:8, 26:15, 26:21, 27:4, 27:6, 27:10, 27:11, 27:14, 124:16, 139:7, 299:8, 299:12, 299:19, 299:22, 299:24, 300:5, 300:7, 301:17, 303:20, 307:3, 310:6, 311:13, 311:14, 313:5, 313:11, 313:13, 313:14, 313:20, 313:21, 313:24, 314:3, 314:6, 314:9, 314:11, 314:20, 316:23</p> <p>Video [1] - 5:6</p> <p>Videographer [1] - 3:19</p> <p>videographer [1] - 5:5</p> <p>VIDEOGRAPHER [18] - 5:2,</p>	<p>25:19, 25:23, 66:2, 147:11, 147:15, 181:18, 181:22, 237:15, 237:19, 264:5, 264:9, 281:17, 281:21, 297:10, 297:16, 317:23, 318:20</p> <p>videos [2] - 26:5, 26:6</p> <p>VIDEOTAPED [1] - 2:5</p> <p>view [4] - 148:13, 195:14, 195:19, 196:24</p> <p>violation [3] - 72:13, 89:17, 90:19</p> <p>violations [4] - 40:25, 79:24, 79:25, 99:11</p> <p>visible [1] - 259:3</p> <p>visible [4] - 114:13, 114:14, 122:10, 259:2</p> <p>visits [1] - 169:20</p> <p>voice [1] - 312:6</p> <p>vouch [1] - 184:18</p> <p>voucher [8] - 166:3, 174:12, 183:3, 183:22, 184:9, 186:25, 187:2</p> <p>vouchered [1] - 185:11</p> <p>vouchers [1] - 174:16</p>	<p>46:12, 46:13, 46:14, 46:21, 49:16, 50:14, 51:7, 51:15, 51:16, 52:5, 54:10, 54:23, 55:17, 57:7, 61:25, 62:5, 67:24, 68:8, 68:16, 72:7, 74:25, 75:16, 79:20, 80:14, 80:20, 82:6, 82:18, 83:3, 88:21, 90:23, 91:7, 91:8, 91:13, 92:15, 92:18, 92:22, 93:2, 93:16, 93:18, 95:22, 98:19, 98:21, 98:25, 99:6, 99:8, 99:12, 99:23, 99:24, 100:14, 100:25, 101:18, 102:5, 102:21, 106:17, 106:19, 107:14, 108:8, 108:23, 108:24, 109:2, 110:20, 112:12, 112:16, 114:7, 116:11, 119:4, 119:15, 120:5, 121:6, 121:10, 121:21, 122:10, 123:11, 123:12, 123:24, 124:14, 124:15, 124:24, 126:18, 126:20, 127:8, 127:10, 127:11, 127:13, 127:25, 130:24, 131:21, 132:25, 133:9, 134:2, 134:23, 135:16, 135:17, 137:2, 137:4, 137:7, 137:11, 137:18, 139:8, 140:10, 140:22, 140:23, 142:12, 142:19, 143:20, 144:17, 144:20, 146:22, 147:5, 147:7, 147:13, 147:22, 147:24, 148:14, 148:16, 148:20, 149:3, 149:16, 149:19, 149:21, 150:2, 150:3, 150:4, 150:9, 150:19, 151:21, 152:14, 152:19, 152:20, 153:5, 153:15, 153:16, 154:24, 155:6, 156:9, 158:7, 160:8, 161:6, 163:2, 163:16, 163:23, 164:25, 165:25, 166:2, 166:11, 166:17, 168:16, 168:17, 170:10, 171:9, 171:11, 172:20, 173:6, 176:8, 177:2, 177:5, 178:6, 178:11, 181:7, 181:13, 181:21, 182:3, 184:19, 185:4, 186:13, 188:4, 188:24, 189:16, 189:24, 190:6, 190:19, 192:11, 192:23, 195:13, 195:14, 195:15, 196:2, 196:7, 197:5, 197:10, 197:13, 198:12, 200:7, 201:20, 202:5, 202:21, 203:22, 204:8, 204:15, 205:15, 205:23, 206:6, 206:20, 207:2, 207:15, 207:25, 208:10, 208:11, 209:3, 210:23,</p>	<p>211:6, 213:18, 215:19, 215:23, 216:7, 216:9, 217:2, 217:4, 217:11, 217:12, 218:21, 219:12, 220:2, 220:19, 221:23, 222:14, 222:23, 226:11, 227:4, 227:12, 229:11, 229:12, 229:13, 229:15, 230:15, 232:18, 233:3, 235:8, 235:12, 235:24, 236:10, 237:18, 237:25, 238:13, 239:17, 239:21, 239:25, 241:6, 242:25, 245:9, 245:12, 246:5, 246:19, 247:15, 248:11, 251:5, 261:18, 262:13, 262:14, 263:21, 264:8, 264:21, 265:13, 266:14, 267:2, 268:2, 268:12, 273:9, 273:21, 274:16, 276:4, 276:7, 276:14, 277:6, 278:13, 281:20, 282:2, 283:9, 286:23, 290:3, 290:17, 290:18, 290:22, 290:23, 291:7, 291:8, 292:2, 292:4, 292:6, 293:20, 293:25, 294:4, 295:6, 295:16, 295:17, 297:13, 297:14, 301:25, 304:5, 309:9, 310:22, 310:24, 311:11, 311:20, 311:21, 311:22, 311:24, 312:2, 312:4, 312:5, 312:7, 312:11, 312:17, 312:25, 316:13, 318:2, 319:3, 323:11</p> <p>was he [16] - 52:3, 81:6, 91:5, 93:3, 98:17, 101:4, 102:5, 123:17, 134:17, 166:14, 170:14, 176:11, 232:16, 257:11, 291:17, 311:18</p> <p>was it [28] - 12:10, 16:2, 19:9, 28:25, 33:6, 49:7, 49:17, 51:6, 78:9, 80:9, 84:22, 85:5, 86:20, 88:13, 104:24, 108:23, 119:4, 121:16, 134:3, 135:6, 158:19, 158:23, 167:11, 167:14, 171:12, 187:22, 198:5, 224:14</p> <p>was she [2] - 150:22, 151:10</p> <p>was that [18] - 14:17, 25:2, 27:16, 42:21, 46:4, 54:9, 56:16, 56:19, 81:15, 85:15, 86:12, 115:23, 133:7, 167:22, 189:4, 190:10, 266:19, 297:23</p> <p>was there [11] - 15:5, 31:12, 44:4, 45:11, 104:8,</p>
W			
<p>W [1] - 3:8</p> <p>wait [3] - 7:6, 93:13, 236:24</p> <p>waiting [7] - 87:17, 96:12, 118:19, 125:3, 130:24, 287:11, 296:18</p> <p>waived [1] - 4:9</p> <p>walk [4] - 17:3, 17:22, 170:13, 170:21</p> <p>want [31] - 7:24, 8:9, 8:11, 25:17, 26:2, 43:4, 50:24, 51:2, 66:3, 66:4, 82:21, 102:9, 105:9, 154:6, 154:18, 161:25, 169:21, 170:25, 171:5, 184:20, 189:5, 199:5, 249:8, 253:24, 265:25, 279:21, 289:8, 290:19, 294:13, 301:7, 304:23</p> <p>wanted [6] - 27:15, 109:7, 158:4, 162:4, 201:16, 294:22</p> <p>wants [1] - 147:18</p> <p>Was [1] - 311:18</p> <p>was [363] - 6:9, 14:15, 14:18, 16:12, 16:13, 16:16, 16:18, 16:19, 16:20, 17:2, 17:3, 17:12, 17:15, 17:22, 18:12, 20:24, 21:10, 22:17, 23:15, 25:22, 26:6, 26:16, 26:21, 26:23, 27:16, 28:20, 29:7, 29:19, 29:25, 30:4, 30:11, 31:7, 31:9, 31:10, 32:3, 32:12, 32:16, 32:19, 33:8, 36:4, 42:25, 46:10,</p>			

<p>134:25, 161:17, 196:8, 206:16, 219:11, 230:8 wasn't [25] - 29:6, 30:13, 45:16, 52:5, 54:4, 54:5, 54:11, 54:19, 57:12, 93:22, 119:14, 122:5, 148:23, 152:21, 152:22, 155:4, 156:2, 156:19, 167:25, 177:7, 196:2, 196:6, 217:3, 235:12, 259:8 watch [3] - 157:20, 289:21, 290:17 watched [1] - 313:20 water [1] - 66:5 wave [2] - 97:9, 157:24 way [66] - 44:12, 49:2, 52:12, 56:9, 60:16, 64:13, 72:21, 77:4, 80:3, 80:4, 83:19, 83:20, 83:21, 94:24, 94:25, 95:3, 102:23, 102:24, 103:14, 103:16, 104:18, 109:8, 112:11, 112:17, 114:6, 116:17, 119:11, 126:14, 127:20, 138:2, 138:23, 140:8, 143:13, 144:9, 144:14, 144:17, 159:4, 172:20, 177:20, 178:7, 187:8, 194:18, 195:13, 196:24, 202:2, 202:17, 204:6, 204:8, 205:18, 205:19, 206:4, 242:8, 282:21, 282:22, 284:15, 306:19, 323:17 We [1] - 5:2 we [96] - 8:7, 16:20, 16:25, 17:2, 17:4, 17:8, 17:10, 17:12, 17:22, 17:23, 22:4, 25:6, 26:6, 39:20, 40:12, 40:16, 58:16, 65:24, 71:13, 73:17, 81:8, 84:20, 90:10, 95:18, 99:12, 100:4, 100:17, 103:25, 104:15, 108:3, 113:7, 116:18, 116:21, 117:22, 117:23, 129:15, 142:5, 142:14, 147:6, 155:3, 163:15, 178:15, 179:11, 181:15, 182:8, 183:21, 184:24, 187:7, 187:15, 190:16, 190:22, 190:23, 190:25, 193:3, 195:4, 199:12, 201:8, 216:11, 216:15, 216:18, 219:18, 219:19, 219:20, 219:22, 221:12, 237:2, 237:6, 237:13, 248:8, 262:23, 262:25, 263:6, 263:11, 263:24, 267:2, 269:3, 269:5, 269:9, 281:15, 283:6, 297:19, 301:8, 302:11, 303:25, 304:8, 308:14,</p>	<p>308:17, 310:12, 318:7, 318:10, 318:11, 318:14, 318:22 we'll [3] - 27:14, 147:10, 199:13 we're [27] - 49:25, 60:21, 66:23, 81:3, 82:12, 85:19, 86:16, 136:22, 136:23, 219:20, 237:9, 237:11, 260:9, 261:21, 262:20, 266:17, 269:5, 269:6, 294:15, 296:15, 299:8, 300:14, 300:23, 301:22, 302:3, 305:17, 311:2 we've [1] - 279:2 wear [2] - 11:9, 11:25 wearing [5] - 101:2, 101:4, 101:20, 122:5, 257:11 weather [4] - 19:11, 19:12, 71:24, 84:25 weed [5] - 179:13, 184:14, 184:16, 187:2, 278:6 week [5] - 23:6, 23:7, 23:9, 23:10, 25:13 weeks [2] - 23:12, 197:15 weigh [1] - 73:11 welcome [2] - 7:25, 241:12 well [17] - 54:4, 54:22, 59:9, 63:2, 78:8, 115:20, 125:2, 127:6, 142:24, 177:4, 207:15, 217:20, 220:17, 222:22, 304:16, 311:13, 318:17 went [27] - 10:3, 30:23, 31:8, 97:24, 98:2, 98:14, 100:19, 115:24, 125:6, 128:18, 130:15, 132:8, 133:13, 134:6, 153:9, 179:12, 180:11, 180:12, 181:8, 191:20, 196:18, 216:22, 290:24, 292:16, 292:17, 294:23 were [127] - 15:4, 15:6, 16:20, 19:11, 28:21, 29:4, 32:18, 33:12, 36:22, 36:25, 38:9, 43:5, 43:8, 43:9, 43:25, 47:6, 47:9, 55:15, 58:11, 61:15, 64:9, 72:10, 72:12, 75:9, 75:10, 75:13, 75:20, 76:22, 85:5, 86:7, 86:8, 86:9, 86:13, 91:4, 91:24, 92:14, 92:16, 92:19, 94:14, 95:19, 97:14, 100:6, 104:22, 105:21, 105:25, 106:5, 106:17, 106:25, 107:13, 107:18, 107:23, 108:2, 108:16, 114:15, 118:13, 124:3, 124:10, 127:21, 139:9, 139:21, 149:23, 151:16, 153:12, 154:10,</p>	<p>155:3, 155:15, 155:22, 156:16, 157:7, 157:10, 157:15, 158:3, 159:14, 160:12, 161:11, 161:14, 161:22, 163:20, 169:11, 169:18, 172:16, 172:19, 175:17, 176:5, 186:19, 188:11, 189:18, 189:21, 189:25, 190:16, 191:8, 191:19, 193:3, 198:25, 199:2, 199:12, 203:15, 204:7, 206:15, 218:6, 218:24, 225:20, 256:7, 259:24, 263:8, 265:7, 265:17, 268:23, 273:24, 274:2, 281:13, 285:22, 292:5, 296:20, 296:21, 298:9, 298:24, 302:20, 302:21, 303:9, 303:25, 307:4, 307:22, 314:17, 315:11, 316:9 were you [64] - 12:7, 14:20, 15:8, 15:9, 15:10, 30:16, 30:18, 31:3, 32:6, 32:9, 33:3, 35:6, 35:22, 36:12, 36:15, 36:22, 37:2, 37:21, 37:22, 38:2, 38:16, 39:6, 39:18, 41:16, 44:11, 44:15, 44:22, 46:6, 51:23, 77:16, 78:4, 79:19, 80:6, 80:11, 81:18, 88:10, 104:21, 105:19, 109:12, 112:8, 124:10, 124:11, 133:3, 138:13, 146:15, 147:2, 151:19, 152:2, 152:10, 166:16, 171:21, 176:4, 183:6, 194:25, 195:6, 208:4, 231:18, 236:3, 236:7, 242:7, 295:14, 296:16 weren't [5] - 91:24, 146:18, 189:24, 190:4, 191:2 west [6] - 83:14, 83:25, 103:17, 103:20, 111:14, 300:18 westbound [4] - 87:21, 103:12, 194:15, 302:19 what [296] - 9:23, 11:13, 14:4, 14:22, 16:10, 19:10, 19:21, 21:9, 21:11, 22:5, 24:3, 26:3, 26:12, 29:10, 29:17, 34:8, 34:18, 34:25, 35:16, 37:7, 40:22, 42:20, 42:21, 45:7, 46:3, 47:23, 48:2, 48:7, 48:12, 48:17, 49:9, 49:23, 50:11, 50:12, 50:18, 51:3, 54:15, 54:24, 56:8, 56:15, 57:7, 58:21, 58:23, 58:24, 59:2, 59:3, 59:10, 59:14, 59:17, 60:19, 61:18, 61:24, 62:15, 63:4,</p>	<p>63:12, 65:12, 66:17, 67:9, 67:17, 68:20, 70:6, 71:16, 72:19, 72:23, 73:15, 75:19, 76:12, 77:5, 77:22, 78:8, 78:18, 78:22, 82:13, 82:14, 83:14, 84:20, 85:4, 87:7, 88:7, 89:6, 89:7, 90:16, 90:22, 91:9, 93:20, 97:2, 97:17, 98:25, 99:3, 99:25, 100:5, 100:13, 101:17, 103:10, 103:23, 103:24, 104:9, 104:13, 108:6, 110:2, 110:13, 111:11, 113:6, 113:14, 113:17, 113:23, 113:25, 115:18, 116:8, 116:10, 117:16, 117:17, 117:21, 118:14, 120:11, 120:24, 122:18, 123:22, 123:24, 124:12, 124:23, 126:24, 128:10, 128:23, 129:14, 129:17, 129:23, 129:24, 130:5, 131:11, 131:14, 131:21, 134:5, 135:9, 135:21, 137:3, 137:21, 138:17, 139:22, 140:17, 142:14, 145:23, 146:4, 146:5, 149:18, 150:12, 152:5, 152:23, 153:2, 154:10, 155:15, 159:6, 159:15, 159:18, 159:21, 160:24, 161:24, 162:2, 162:9, 164:19, 164:20, 166:2, 166:12, 166:23, 167:4, 168:16, 168:20, 169:4, 169:17, 169:18, 170:3, 170:7, 173:7, 175:4, 175:10, 175:24, 177:12, 177:15, 177:17, 177:19, 177:24, 178:2, 178:3, 178:6, 178:11, 178:20, 179:24, 180:3, 180:11, 181:12, 186:11, 187:7, 192:14, 193:3, 193:19, 194:14, 195:17, 196:6, 198:2, 199:12, 201:6, 201:19, 202:17, 205:8, 210:14, 211:7, 212:5, 213:17, 216:4, 216:17, 217:20, 219:3, 219:8, 221:11, 222:24, 224:10, 224:18, 224:20, 224:24, 228:2, 228:10, 229:13, 230:15, 231:15, 232:9, 234:25, 235:16, 236:4, 241:22, 241:24, 242:3, 242:6, 242:16, 243:5, 243:20, 246:3, 247:2, 249:15, 250:22, 251:22, 252:5, 252:10, 254:3, 257:20, 258:9, 259:12, 260:8, 260:17, 261:16,</p>
---	---	--	---

<p>264:24, 266:12, 267:4, 267:25, 268:23, 269:5, 269:18, 272:21, 272:24, 273:25, 276:11, 276:13, 276:18, 281:8, 281:12, 282:9, 282:10, 287:10, 287:21, 288:15, 288:19, 289:19, 290:2, 291:10, 291:15, 291:19, 292:16, 294:4, 294:20, 296:5, 296:25, 298:15, 301:21, 302:3, 304:22, 307:23, 311:21, 312:11, 312:15, 313:3, 314:17, 315:10, 317:9, 318:10</p> <p>what are [5] - 96:3, 220:25, 221:2, 269:23, 304:23</p> <p>What did [38] - 10:2, 20:6, 21:13, 49:20, 53:6, 53:10, 58:15, 86:22, 88:2, 89:2, 92:3, 96:25, 99:22, 100:10, 112:4, 114:23, 116:13, 116:14, 137:24, 138:19, 145:12, 145:20, 165:20, 171:15, 171:17, 174:2, 174:6, 185:7, 185:12, 187:4, 196:16, 197:18, 234:12, 239:12, 292:25, 296:3, 296:7, 298:21</p> <p>What is [9] - 6:16, 10:15, 11:3, 21:5, 79:22, 279:7, 283:19, 288:14, 291:9</p> <p>what was [30] - 15:12, 15:16, 18:5, 36:8, 37:18, 38:12, 43:11, 43:20, 43:22, 46:9, 50:20, 56:11, 77:10, 77:13, 79:17, 98:24, 111:22, 121:4, 124:10, 124:12, 131:8, 155:17, 155:21, 156:25, 160:4, 165:24, 180:10, 212:5, 311:16, 312:21</p> <p>what were [9] - 14:14, 30:20, 38:13, 42:24, 84:25, 87:4, 151:12, 185:15, 186:16</p> <p>What's [2] - 10:23, 62:16</p> <p>what's [23] - 11:7, 11:12, 34:10, 35:3, 42:8, 52:25, 59:21, 63:3, 66:16, 73:14, 84:11, 120:18, 141:6, 183:18, 183:19, 202:16, 205:25, 242:2, 253:13, 289:25, 296:19, 310:21, 311:5</p> <p>whatever [2] - 50:4, 178:4</p> <p>when [113] - 8:21, 12:24, 13:21, 15:21, 15:25, 22:4, 23:4, 25:3, 25:6, 26:18, 28:20, 32:19, 34:4, 35:11, 51:20, 52:2, 63:5, 63:23,</p>	<p>68:11, 69:24, 70:19, 74:22, 80:23, 81:3, 81:4, 87:12, 89:14, 91:6, 91:7, 92:23, 93:6, 94:7, 97:18, 99:4, 99:21, 100:21, 102:25, 108:11, 112:14, 123:6, 125:13, 137:4, 138:13, 138:14, 148:9, 148:10, 148:11, 154:24, 155:12, 160:18, 163:10, 164:24, 166:17, 169:13, 171:9, 171:25, 177:7, 179:11, 179:13, 180:14, 182:9, 182:23, 184:2, 186:2, 186:12, 187:15, 194:21, 195:21, 197:10, 203:20, 204:19, 207:7, 207:13, 218:24, 222:4, 222:12, 225:7, 225:22, 226:2, 228:12, 228:20, 233:11, 233:17, 233:23, 234:25, 241:14, 243:11, 246:5, 246:9, 246:19, 247:9, 247:15, 248:22, 251:10, 251:17, 256:13, 258:19, 260:5, 264:13, 265:16, 269:5, 273:13, 275:5, 277:11, 277:17, 278:17, 283:13, 286:5, 294:15, 307:13, 315:16, 318:17</p> <p>when did [16] - 9:20, 49:12, 53:16, 69:3, 108:5, 144:25, 197:3, 203:18, 208:9, 208:25, 273:19, 278:3, 280:8, 286:15, 295:3, 314:11</p> <p>when were [1] - 77:19</p> <p>when would [1] - 246:2</p> <p>when you [83] - 15:4, 20:6, 20:14, 22:12, 25:11, 25:12, 26:4, 44:12, 49:8, 50:10, 52:12, 58:14, 60:18, 81:10, 81:17, 87:24, 88:5, 89:25, 97:21, 104:5, 104:7, 104:22, 106:10, 106:25, 109:10, 109:25, 111:23, 114:15, 114:21, 121:23, 125:16, 125:24, 126:7, 132:19, 133:6, 134:5, 134:13, 135:15, 136:8, 137:20, 139:21, 141:25, 145:10, 145:25, 154:19, 155:12, 155:18, 157:15, 159:13, 161:21, 165:8, 166:13, 168:5, 169:11, 171:15, 172:5, 173:3, 175:12, 183:7, 189:21, 191:8, 193:4, 193:7, 195:10, 196:15, 197:19, 200:5, 202:15, 203:11, 204:4, 206:15, 208:4, 225:8, 227:25, 250:3, 261:19, 267:22, 284:9, 295:20,</p>	<p>296:3, 296:7, 313:19, 314:17</p> <p>whenever [4] - 69:21, 73:9, 199:17, 200:12</p> <p>where [76] - 17:24, 27:10, 27:24, 34:13, 38:5, 39:13, 67:14, 77:25, 100:18, 102:10, 112:2, 155:3, 161:6, 162:4, 163:15, 183:6, 185:13, 202:24, 209:7, 210:21, 211:25, 215:13, 216:7, 223:10, 224:6, 224:10, 224:14, 224:19, 226:5, 226:25, 232:3, 232:14, 234:4, 234:9, 235:5, 240:6, 242:13, 244:7, 244:13, 244:21, 245:6, 245:14, 246:25, 247:18, 249:12, 252:24, 255:2, 261:20, 262:2, 262:10, 263:2, 265:23, 273:22, 276:16, 276:21, 276:22, 280:22, 282:18, 285:13, 286:19, 287:3, 288:9, 291:22, 296:11, 297:20, 301:8, 301:23, 301:24, 302:4, 302:11, 303:9, 303:11, 305:2, 308:21, 309:20, 310:13</p> <p>where are [4] - 83:9, 107:3, 111:20, 306:7</p> <p>where is [6] - 94:13, 164:20, 165:11, 249:12, 275:18, 306:14</p> <p>where was [7] - 118:12, 118:24, 125:17, 134:13, 238:18, 238:19, 238:25</p> <p>where were [5] - 36:18, 51:21, 87:11, 94:8, 208:3</p> <p>WHEREOF [1] - 323:19</p> <p>whereupon [2] - 299:22, 313:13</p> <p>Whereupon [27] - 25:21, 67:23, 147:13, 181:20, 204:14, 206:25, 221:22, 233:2, 237:17, 241:5, 242:24, 248:10, 256:6, 259:23, 263:20, 264:7, 273:8, 277:5, 278:12, 281:19, 281:25, 283:8, 285:21, 297:12, 297:14, 317:25, 319:2</p> <p>whether [32] - 11:16, 30:3, 30:10, 31:6, 31:24, 56:23, 65:3, 68:16, 72:12, 74:15, 93:15, 106:7, 119:10, 123:5, 146:21, 162:12, 172:22, 190:9, 211:5, 211:14, 232:11, 247:5, 247:24, 248:3, 252:18, 255:7, 265:23, 267:12, 271:22,</p>	<p>275:11, 297:3, 303:20</p> <p>which [35] - 16:13, 16:20, 20:2, 23:21, 24:3, 24:24, 24:25, 26:15, 49:16, 83:25, 84:4, 145:18, 167:11, 178:8, 180:9, 181:24, 182:19, 187:16, 189:12, 208:20, 212:11, 212:12, 213:20, 214:10, 218:20, 223:16, 253:25, 261:20, 269:20, 272:3, 284:15, 287:17, 307:22, 310:18, 312:24</p> <p>while [32] - 33:12, 33:25, 36:25, 42:17, 43:9, 61:15, 81:9, 90:23, 91:4, 126:18, 127:8, 127:21, 127:25, 137:10, 149:19, 194:12, 197:14, 205:21, 206:16, 207:15, 208:10, 215:20, 222:14, 226:16, 226:17, 235:2, 238:8, 238:12, 252:12, 269:6</p> <p>white [3] - 95:15, 284:13, 298:11</p> <p>who [27] - 23:13, 41:2, 44:20, 46:23, 48:19, 48:21, 64:13, 80:18, 116:6, 117:24, 132:25, 133:8, 176:10, 188:10, 188:11, 250:10, 250:12, 252:16, 260:25, 265:3, 265:14, 276:3, 292:19, 309:9, 314:8, 315:6, 316:6</p> <p>who is [3] - 208:18, 265:20, 308:2</p> <p>who was [11] - 22:11, 38:22, 40:10, 41:13, 79:11, 79:13, 79:24, 125:3, 134:20, 134:22, 251:25</p> <p>who were [1] - 18:15</p> <p>who's [3] - 41:22, 144:8, 201:11</p> <p>whoever [2] - 246:12, 271:10</p> <p>whole [14] - 102:23, 125:20, 126:20, 126:24, 126:25, 156:16, 182:21, 195:11, 216:18, 275:5, 275:15, 290:19, 310:24, 313:11</p> <p>whose [5] - 121:21, 245:2, 266:11, 312:25, 323:10</p> <p>why [100] - 10:12, 11:17, 17:9, 17:18, 21:8, 27:19, 36:3, 39:18, 47:14, 47:19, 51:14, 54:3, 54:5, 54:18, 55:9, 57:9, 59:10, 60:5, 60:10, 60:20, 64:18, 67:11, 78:4, 81:15, 107:9, 107:21, 109:6, 110:16, 112:8, 114:12, 118:5, 118:16,</p>
---	--	---	--

<p>126:13, 127:10, 127:11, 132:7, 136:18, 137:16, 139:12, 143:3, 143:18, 144:5, 146:18, 159:3, 160:5, 162:4, 162:10, 168:13, 172:11, 172:25, 175:20, 179:15, 182:6, 182:20, 185:25, 188:19, 189:3, 194:25, 199:8, 201:15, 202:4, 216:9, 218:5, 218:13, 225:6, 228:6, 229:10, 229:25, 234:15, 234:21, 235:18, 236:9, 236:13, 239:15, 245:9, 250:13, 253:16, 253:22, 254:16, 265:6, 270:3, 270:8, 271:14, 271:19, 272:2, 272:6, 272:8, 272:12, 284:3, 285:15, 289:2, 290:8, 293:18, 293:21, 296:16, 303:4, 305:8, 306:2, 312:5</p> <p>will [9] - 7:17, 8:5, 8:16, 8:22, 9:3, 21:11, 204:18, 263:6</p> <p>Will [1] - 5:18</p> <p>window [2] - 141:23, 157:6</p> <p>windows [3] - 97:14, 157:7, 303:16</p> <p>with [189] - 4:12, 4:15, 5:5, 6:5, 11:23, 15:18, 15:22, 18:13, 18:16, 21:17, 21:18, 21:20, 21:24, 22:7, 22:12, 22:25, 23:8, 23:11, 23:13, 25:11, 25:12, 25:14, 25:17, 26:11, 26:17, 27:11, 27:24, 28:5, 31:21, 32:4, 33:12, 33:19, 33:22, 41:9, 43:16, 44:5, 44:13, 44:16, 44:23, 45:2, 45:13, 47:21, 47:22, 48:5, 48:6, 48:11, 48:16, 49:2, 50:12, 53:20, 55:12, 55:22, 56:21, 59:15, 61:2, 61:6, 61:12, 61:21, 61:22, 62:4, 62:23, 66:6, 66:8, 66:11, 68:15, 69:16, 70:18, 72:3, 75:24, 76:12, 77:5, 77:6, 81:10, 82:13, 82:16, 83:22, 94:8, 96:11, 101:14, 107:4, 107:24, 112:12, 115:10, 115:25, 117:5, 121:9, 123:23, 124:11, 124:19, 125:9, 126:11, 128:23, 129:3, 130:9, 131:17, 131:21, 133:16, 133:22, 135:6, 135:19, 136:10, 136:15, 137:10, 138:10, 138:16, 139:24, 140:2, 140:5, 140:10, 146:3, 146:5, 146:8, 149:12, 152:7, 152:11, 152:18, 158:21,</p>	<p>158:25, 165:2, 165:20, 166:9, 166:16, 171:12, 178:10, 178:18, 182:10, 182:12, 184:4, 185:8, 186:20, 187:24, 188:7, 189:8, 190:25, 192:5, 192:18, 193:8, 195:14, 196:10, 198:20, 199:6, 204:7, 207:16, 208:23, 209:22, 210:5, 211:7, 218:3, 218:11, 220:20, 223:9, 225:9, 228:7, 230:13, 231:4, 235:20, 242:8, 242:9, 250:5, 251:25, 260:14, 261:25, 268:25, 269:4, 271:4, 271:23, 275:24, 281:5, 282:11, 286:17, 288:23, 290:22, 291:5, 291:18, 291:22, 292:5, 294:4, 296:25, 300:5, 300:10, 301:2, 301:19, 312:22, 314:24, 315:9, 316:8, 317:4, 317:18</p> <p>within [11] - 4:8, 44:21, 45:6, 45:12, 54:15, 55:5, 55:19, 76:11, 76:17, 88:13, 323:8</p> <p>without [5] - 22:6, 87:9, 122:9, 123:7, 313:17</p> <p>witness [17] - 4:10, 4:16, 4:18, 6:6, 6:8, 14:21, 15:9, 46:7, 46:8, 47:6, 208:16, 275:24, 276:4, 318:13, 319:3, 323:10, 323:13</p> <p>WITNESS [11] - 62:14, 93:14, 168:22, 255:24, 263:24, 264:4, 273:25, 274:4, 279:23, 308:11, 323:19</p> <p>witness' [1] - 302:5</p> <p>witnesses [1] - 301:24</p> <p>woman [2] - 30:4, 31:7</p> <p>wondering [2] - 210:19, 238:25</p> <p>Woods [3] - 2:12, 6:5, 6:6</p> <p>WOODS [2] - 323:7, 323:25</p> <p>word [6] - 50:24, 50:25, 145:15, 145:16, 168:17</p> <p>words [1] - 307:4</p> <p>work [16] - 9:21, 10:2, 36:6, 61:5, 61:12, 61:21, 62:4, 89:20, 90:13, 174:15, 176:21, 176:23, 195:4, 206:12, 211:21, 246:16</p> <p>worked [3] - 61:22, 81:8, 81:10</p> <p>working [2] - 190:19, 286:20</p> <p>works [2] - 7:2, 141:13</p> <p>worksheet [3] - 232:25,</p>	<p>233:3, 321:12</p> <p>worried [4] - 171:21, 172:4, 176:4, 210:17</p> <p>would [80] - 10:9, 13:10, 30:22, 35:19, 39:16, 55:4, 64:12, 64:13, 72:10, 72:15, 75:23, 80:18, 80:22, 81:11, 81:12, 89:11, 89:25, 90:5, 90:7, 101:7, 118:8, 123:4, 124:6, 132:24, 140:9, 141:14, 145:9, 155:23, 156:10, 156:12, 157:4, 158:8, 158:17, 159:8, 162:3, 163:23, 176:15, 177:10, 177:21, 197:15, 201:5, 201:13, 201:14, 202:23, 202:25, 203:4, 209:10, 209:17, 219:14, 219:15, 220:11, 244:7, 244:13, 246:13, 246:15, 247:8, 252:19, 253:22, 258:5, 258:6, 258:11, 267:8, 267:9, 276:17, 276:21, 276:22, 280:14, 285:16, 300:20, 301:12, 302:24, 305:19, 308:21, 311:9, 312:7, 317:5, 317:14</p> <p>wouldn't [7] - 10:13, 122:13, 122:16, 123:10, 163:10, 175:20, 220:10</p> <p>write [16] - 96:9, 99:13, 155:19, 201:17, 209:7, 210:20, 210:22, 215:10, 216:11, 216:18, 218:4, 219:2, 219:4, 219:8, 225:22, 255:3</p> <p>writes [2] - 292:7, 292:22</p> <p>writing [13] - 40:24, 79:23, 89:10, 90:23, 91:4, 95:19, 95:23, 179:12, 214:3, 263:11, 263:12, 269:19, 287:25</p> <p>writings [1] - 210:5</p> <p>written [7] - 29:25, 209:11, 209:18, 212:5, 215:8, 217:22, 224:13</p> <p>wrong [13] - 60:7, 60:11, 80:3, 112:11, 112:16, 138:2, 178:6, 187:8, 205:18, 206:4, 282:21, 294:4</p> <p>wrote [13] - 17:6, 17:8, 207:23, 211:14, 221:2, 235:22, 235:23, 238:24, 252:10, 252:16, 282:20, 284:5, 292:15</p>	<p>Y</p> <p>Yeah [1] - 93:14</p> <p>yeah [34] - 14:24, 26:4, 28:15, 40:9, 47:7, 50:9, 51:8, 71:15, 75:12, 91:3, 133:5, 140:14, 165:4, 171:18, 171:22, 184:25, 197:17, 198:16, 199:18, 214:12, 215:12, 227:4, 232:17, 251:19, 253:4, 262:10, 287:24, 288:8, 290:21, 315:5, 315:17</p> <p>year [12] - 28:23, 29:10, 34:8, 34:18, 35:16, 36:14, 37:7, 39:8, 42:21, 46:4, 77:22, 149:19</p> <p>years [9] - 12:19, 29:16, 29:20, 36:4, 38:4, 42:6, 49:15, 150:22, 236:25</p> <p>yell [1] - 157:16</p> <p>yelling [1] - 311:19</p> <p>yep [1] - 268:16</p> <p>yes [405] - 7:9, 7:15, 7:19, 7:23, 8:4, 8:8, 8:14, 10:6, 10:11, 10:22, 12:3, 12:9, 12:12, 12:20, 12:23, 13:5, 13:11, 13:13, 13:15, 13:24, 14:7, 14:19, 15:7, 18:9, 18:10, 18:14, 19:5, 19:8, 21:3, 21:22, 22:2, 22:10, 23:3, 23:20, 24:13, 24:15, 28:7, 29:9, 29:24, 30:2, 30:19, 31:11, 31:23, 32:14, 34:5, 35:8, 35:15, 35:23, 36:2, 36:17, 37:12, 38:17, 38:19, 38:21, 39:12, 40:4, 40:21, 41:25, 42:18, 43:10, 45:22, 46:20, 47:13, 53:15, 55:2, 56:22, 57:19, 57:25, 58:20, 59:25, 61:7, 61:10, 61:13, 62:21, 65:23, 67:4, 68:23, 69:2, 69:13, 69:19, 69:22, 70:5, 70:7, 70:23, 71:3, 71:6, 71:11, 71:15, 73:5, 73:22, 73:23, 75:5, 75:19, 76:3, 77:2, 77:18, 77:22, 78:12, 79:4, 79:10, 81:24, 82:8, 84:10, 86:2, 86:15, 88:9, 89:13, 91:22, 94:6, 94:12, 94:21, 95:11, 96:19, 97:13, 98:23, 99:16, 99:20, 102:3, 102:15, 103:9, 103:21, 105:2, 105:12, 105:18, 107:20, 109:5, 109:18, 110:12, 110:23, 111:4, 111:16, 112:18, 112:20, 112:24, 115:17, 116:5, 118:4, 118:11, 120:10, 120:17, 121:22, 122:6, 124:8, 126:2, 126:9,</p>
		<p>X</p> <p>X [4] - 1:3, 1:13, 321:2, 322:2</p>	

126:12, 126:19, 128:13, 129:13, 129:16, 130:7, 130:22, 130:25, 131:7, 131:23, 132:4, 133:15, 134:19, 135:3, 137:23, 138:15, 138:18, 139:20, 140:21, 141:12, 142:6, 144:19, 144:21, 144:24, 145:8, 145:11, 147:9, 149:15, 151:11, 151:25, 153:24, 154:22, 155:8, 156:18, 156:24, 157:11, 159:24, 160:3, 160:10, 160:17, 161:12, 161:16, 162:24, 163:18, 164:7, 164:12, 164:15, 165:19, 166:18, 167:10, 169:6, 169:8, 169:24, 170:12, 174:5, 175:8, 176:7, 177:22, 180:18, 182:5, 184:15, 186:22, 189:13, 190:3, 191:7, 191:24, 192:4, 192:19, 193:6, 193:15, 193:16, 193:19, 193:23, 193:25, 194:8, 195:8, 197:25, 198:10, 198:14, 199:25, 200:4, 200:8, 202:3, 203:4, 204:3, 204:5, 204:24, 205:4, 205:7, 207:8, 207:11, 207:21, 208:24, 209:6, 211:12, 212:3, 213:7, 213:13, 213:15, 214:16, 215:6, 215:16, 216:5, 216:23, 220:24, 222:10, 222:18, 223:6, 223:22, 224:22, 226:7, 228:8, 230:14, 231:11, 232:5, 232:8, 232:13, 233:16, 233:22, 234:8, 234:11, 234:14, 234:16, 234:20, 236:8, 237:25, 238:17, 239:11, 239:14, 239:23, 240:9, 240:16, 241:10, 241:16, 241:20, 243:13, 243:16, 245:8, 245:17, 246:11, 246:17, 247:6, 247:12, 247:20, 249:6, 249:18, 249:21, 250:2, 252:7, 254:14, 254:20, 254:24, 256:21, 257:2, 257:24, 258:11, 258:14, 259:2, 260:7, 261:12, 264:3, 264:23, 265:2, 265:11, 266:18, 267:6, 267:18, 267:21, 269:17, 270:6, 270:16, 270:19, 270:21, 270:24, 271:8, 271:13, 272:5, 272:16, 272:19, 273:15, 273:18, 274:4, 274:20, 274:24, 274:25, 276:2, 276:10, 276:11,	277:13, 277:16, 277:23, 278:2, 278:18, 279:6, 280:4, 280:7, 280:16, 280:20, 280:24, 282:13, 282:16, 282:21, 282:25, 283:15, 283:18, 284:24, 285:6, 285:9, 285:11, 285:14, 286:6, 286:9, 286:14, 286:25, 288:10, 289:17, 289:24, 290:7, 290:20, 290:21, 291:24, 292:6, 292:24, 294:16, 295:12, 297:22, 298:11, 299:10, 299:15, 300:3, 300:6, 300:8, 300:15, 300:19, 300:22, 301:3, 302:8, 302:9, 302:15, 303:3, 303:14, 303:18, 304:3, 304:7, 305:15, 305:21, 306:22, 306:25, 307:12, 308:6, 308:7, 308:16, 308:19, 308:23, 309:22, 313:8, 314:19, 315:5, 316:4 Yes ^[4] - 78:10, 129:10, 166:21, 224:4 yesterday ^[2] - 9:22, 318:15 yet ^[9] - 52:9, 174:19, 287:20, 287:22, 288:2, 294:8, 294:17, 296:22, 309:11 York ^[18] - 2:11, 2:13, 3:6, 3:15, 5:7, 5:12, 5:13, 5:14, 5:17, 5:24, 6:2, 6:9, 6:17, 6:18, 323:8 YORK ^[5] - 1:2, 1:8, 3:9, 3:10, 323:4 you ^[868] - 6:22, 6:25, 7:6, 7:7, 7:8, 7:11, 7:13, 7:16, 7:18, 7:20, 7:21, 7:24, 8:6, 8:9, 8:11, 8:16, 8:23, 9:2, 9:20, 10:2, 10:4, 10:8, 10:12, 11:17, 11:21, 12:11, 13:25, 15:2, 15:5, 15:9, 15:21, 17:6, 17:20, 18:3, 18:6, 18:13, 18:16, 19:14, 19:16, 19:21, 19:23, 20:6, 20:9, 20:14, 20:15, 20:21, 21:5, 21:13, 21:16, 22:6, 24:6, 24:10, 24:17, 24:25, 25:12, 26:3, 26:9, 26:10, 26:12, 27:5, 27:6, 27:10, 27:11, 27:16, 27:24, 27:25, 28:13, 28:21, 29:4, 29:7, 29:14, 29:15, 30:13, 31:19, 31:24, 32:18, 32:21, 33:7, 33:12, 33:15, 35:7, 35:20, 35:25, 36:18, 36:22, 36:25, 37:13, 37:16, 38:9, 39:10, 40:5, 40:8, 40:14, 40:17, 40:19, 40:22, 41:4, 41:5, 42:24, 43:5, 43:8,	43:9, 43:15, 44:2, 44:25, 45:7, 45:8, 45:11, 45:15, 46:3, 46:16, 46:17, 47:5, 47:8, 47:9, 47:18, 48:2, 49:8, 49:12, 49:22, 50:4, 50:13, 50:20, 51:12, 51:14, 51:21, 52:3, 52:8, 52:11, 52:13, 52:19, 52:22, 53:6, 53:9, 53:16, 53:21, 53:25, 54:22, 54:24, 55:3, 55:6, 55:14, 55:15, 55:16, 55:25, 56:3, 56:4, 56:9, 56:17, 56:19, 57:13, 57:14, 57:17, 57:23, 58:8, 58:10, 58:15, 59:3, 59:7, 59:10, 59:11, 59:24, 60:2, 60:3, 60:7, 60:11, 60:15, 60:23, 61:15, 61:16, 62:16, 62:19, 62:22, 63:9, 63:15, 63:22, 64:8, 64:9, 64:10, 64:12, 64:13, 64:15, 64:21, 65:6, 65:10, 65:13, 65:17, 65:19, 65:20, 66:3, 66:6, 66:15, 68:6, 68:11, 68:20, 69:3, 69:11, 69:16, 69:17, 69:21, 69:25, 70:6, 71:21, 72:9, 72:10, 72:11, 72:14, 74:2, 74:11, 74:20, 75:7, 75:9, 75:13, 75:15, 75:16, 75:20, 75:22, 76:4, 76:6, 76:10, 76:22, 77:19, 78:11, 78:14, 79:2, 80:15, 81:12, 82:15, 82:21, 82:22, 82:25, 83:9, 83:10, 83:13, 83:14, 84:7, 85:5, 85:16, 85:18, 85:20, 85:24, 86:4, 86:8, 86:13, 86:17, 86:25, 87:4, 87:11, 87:15, 88:2, 88:5, 88:7, 89:7, 89:11, 89:14, 89:19, 89:21, 90:3, 90:7, 90:15, 90:21, 91:4, 91:18, 91:24, 93:12, 93:19, 93:22, 94:3, 94:8, 94:14, 94:22, 95:6, 95:8, 95:17, 95:19, 95:20, 95:25, 96:3, 96:12, 96:21, 97:11, 98:21, 99:17, 99:23, 100:6, 100:18, 100:22, 101:9, 101:17, 101:19, 101:25, 102:4, 102:16, 104:6, 105:16, 105:21, 105:23, 105:25, 106:5, 106:17, 107:2, 107:3, 107:13, 107:15, 107:18, 107:24, 108:6, 108:12, 108:15, 108:18, 108:19, 108:21, 108:22, 109:25, 110:2, 110:4, 110:11, 110:16, 110:24, 111:20, 111:23, 112:4, 113:3, 113:13, 114:23, 115:2, 115:5, 115:15, 115:16, 115:24, 116:13, 116:14,	116:16, 117:2, 117:17, 118:5, 118:9, 118:13, 119:13, 119:18, 119:19, 120:2, 120:7, 120:8, 120:13, 120:24, 121:17, 122:4, 122:7, 123:5, 123:12, 123:23, 124:6, 125:12, 126:10, 126:22, 127:21, 128:23, 128:24, 129:5, 129:18, 129:22, 129:25, 130:4, 130:13, 130:24, 131:2, 131:5, 131:13, 131:16, 131:24, 132:2, 132:13, 132:15, 132:16, 133:12, 133:13, 133:22, 136:3, 136:14, 136:15, 137:24, 137:25, 138:19, 138:22, 139:3, 139:9, 139:16, 139:18, 139:23, 140:4, 140:5, 140:9, 141:10, 141:14, 141:18, 141:21, 142:11, 142:22, 143:5, 143:6, 143:12, 143:18, 143:22, 144:2, 144:8, 144:9, 144:10, 144:15, 144:20, 144:22, 144:23, 145:18, 146:2, 146:18, 149:10, 149:11, 149:16, 149:23, 154:7, 154:10, 155:13, 155:15, 155:22, 156:6, 156:11, 156:12, 156:15, 156:22, 157:4, 157:10, 158:3, 158:4, 158:8, 158:10, 159:14, 159:17, 159:18, 159:21, 159:25, 160:12, 160:22, 161:5, 161:8, 161:11, 161:14, 161:22, 162:4, 162:5, 162:8, 162:10, 162:11, 162:12, 162:14, 162:16, 162:21, 163:10, 163:11, 163:20, 163:23, 164:13, 165:20, 165:25, 167:24, 168:2, 168:11, 170:7, 170:25, 171:5, 171:15, 172:2, 172:13, 172:15, 172:22, 173:6, 173:11, 173:12, 174:2, 174:18, 175:17, 175:20, 176:15, 177:24, 178:4, 178:5, 178:10, 179:18, 179:24, 180:11, 180:24, 181:4, 183:4, 183:5, 183:16, 184:7, 184:13, 184:20, 185:7, 185:12, 185:23, 185:24, 186:7, 186:16, 186:19, 187:5, 187:7, 187:23, 188:6, 189:8, 189:9, 189:18, 189:25, 190:10, 190:13, 191:2, 191:5, 191:10, 191:18, 191:19, 191:20, 191:21, 193:9,
---	---	--	---

<p>193:24, 195:9, 195:11, 195:16, 196:11, 196:15, 196:16, 197:3, 198:2, 198:9, 198:11, 199:6, 199:11, 199:21, 200:3, 200:16, 200:18, 201:5, 201:6, 201:13, 201:24, 202:2, 202:11, 202:19, 202:24, 203:10, 203:15, 203:18, 203:25, 204:6, 204:18, 207:22, 207:23, 208:3, 208:9, 208:12, 208:15, 208:25, 209:10, 209:13, 209:17, 209:20, 209:21, 210:10, 210:14, 210:17, 210:20, 210:21, 211:10, 211:13, 211:14, 212:16, 212:21, 214:6, 214:10, 214:13, 214:17, 216:7, 216:9, 216:14, 216:20, 216:25, 217:21, 218:5, 218:6, 218:8, 218:13, 218:16, 218:22, 218:23, 219:4, 219:15, 219:21, 220:11, 221:2, 221:4, 221:6, 222:3, 223:4, 223:7, 224:6, 224:12, 225:17, 225:20, 225:25, 227:11, 227:14, 227:16, 228:10, 230:9, 230:12, 230:16, 230:20, 231:12, 231:17, 231:21, 232:2, 232:12, 233:7, 233:8, 234:5, 234:9, 234:12, 235:10, 235:20, 235:22, 236:23, 237:3, 238:24, 239:12, 239:21, 239:24, 240:7, 240:11, 240:17, 241:11, 242:20, 243:10, 244:7, 244:13, 245:5, 245:14, 245:18, 247:5, 248:21, 249:14, 250:7, 250:8, 250:23, 251:5, 251:12, 251:15, 251:21, 252:4, 252:10, 253:21, 254:3, 254:6, 256:11, 256:23, 256:24, 257:17, 257:18, 257:20, 257:25, 258:5, 258:6, 259:3, 261:5, 263:2, 263:13, 263:15, 264:11, 266:7, 266:8, 266:22, 268:11, 268:19, 269:2, 269:11, 269:20, 269:24, 270:4, 272:7, 272:23, 273:19, 273:23, 274:22, 275:16, 276:7, 276:11, 278:3, 278:11, 278:21, 279:16, 280:8, 280:14, 280:17, 281:2, 281:7, 281:13, 282:8, 282:10, 282:18, 282:20, 283:5, 283:23, 283:24,</p>	<p>284:18, 284:22, 285:12, 286:2, 286:3, 286:15, 286:20, 287:10, 287:19, 287:22, 287:25, 288:8, 288:15, 289:2, 289:5, 289:8, 289:10, 289:12, 289:13, 289:14, 289:20, 290:3, 290:17, 290:22, 290:24, 291:5, 291:15, 291:22, 292:5, 292:10, 292:15, 292:22, 292:25, 293:6, 293:14, 293:23, 294:3, 294:7, 294:10, 294:17, 294:21, 295:3, 295:4, 295:23, 296:3, 296:9, 296:15, 296:20, 296:21, 297:20, 298:6, 298:9, 298:13, 298:21, 298:23, 299:7, 299:12, 300:4, 300:10, 300:11, 301:9, 301:12, 302:13, 302:20, 302:21, 302:24, 303:4, 303:9, 303:16, 304:10, 304:13, 304:23, 305:5, 305:6, 305:7, 305:12, 306:7, 307:5, 307:15, 307:16, 307:22, 307:23, 308:21, 311:14, 311:16, 312:2, 312:7, 312:10, 312:20, 313:4, 314:11, 314:14, 314:15, 314:17, 314:22, 316:3, 316:6, 316:9, 316:17, 316:18, 317:5, 317:14, 317:18, 318:19</p> <p>You^[86] - 15:23, 16:4, 20:25, 30:7, 30:21, 31:14, 44:17, 47:15, 49:4, 50:22, 52:15, 54:7, 56:5, 56:13, 57:10, 59:5, 63:25, 66:20, 70:21, 70:25, 71:9, 72:16, 74:17, 75:3, 75:17, 75:25, 76:14, 76:19, 77:8, 80:25, 84:18, 90:17, 92:6, 106:13, 107:5, 109:19, 115:12, 119:6, 123:8, 125:21, 127:4, 129:19, 133:18, 135:11, 140:12, 144:11, 145:13, 146:13, 162:6, 162:17, 163:3, 163:12, 170:23, 172:17, 173:18, 175:25, 176:17, 177:13, 181:9, 189:10, 191:12, 193:12, 199:23, 209:24, 210:8, 212:23, 214:8, 217:6, 219:6, 220:14, 224:8, 224:17, 231:9, 250:15, 257:8, 270:11, 274:2, 276:19, 290:10, 291:12, 297:5, 307:18, 310:4, 315:22, 317:7, 317:16</p> <p>you'd^[1] - 314:16</p>	<p>You're^[1] - 241:12</p> <p>you're^[103] - 7:25, 11:16, 14:5, 19:19, 27:18, 33:11, 34:4, 41:8, 41:9, 47:11, 63:4, 63:5, 63:21, 63:23, 64:6, 64:25, 65:2, 65:21, 67:2, 67:8, 68:11, 83:12, 83:19, 84:8, 87:16, 89:15, 91:15, 91:16, 94:9, 94:11, 95:7, 96:2, 102:11, 108:10, 109:17, 110:19, 111:14, 112:15, 121:8, 133:16, 134:10, 137:5, 144:7, 149:24, 153:2, 156:7, 157:19, 158:17, 159:22, 161:2, 161:3, 162:22, 169:4, 172:3, 180:14, 189:9, 199:17, 201:19, 202:17, 204:20, 207:7, 214:23, 216:25, 218:24, 221:12, 222:4, 223:24, 227:2, 227:6, 233:11, 235:10, 241:15, 243:12, 248:22, 256:13, 259:11, 260:5, 264:13, 273:13, 275:3, 277:11, 278:17, 278:20, 281:11, 282:9, 283:14, 286:5, 286:20, 287:24, 288:25, 289:6, 292:11, 300:16, 301:16, 302:17, 303:19, 305:4, 306:17, 307:2, 307:9, 308:2, 310:14, 313:10</p> <p>you've^[13] - 10:4, 10:7, 13:7, 66:17, 66:18, 75:8, 75:14, 257:14, 258:20, 295:11, 299:19, 299:24, 313:6</p> <p>young^[1] - 149:4</p> <p>your^[222] - 6:13, 6:16, 7:5, 8:2, 8:10, 9:3, 9:20, 10:15, 10:20, 10:23, 11:3, 11:5, 11:7, 11:12, 11:14, 11:25, 18:5, 18:6, 19:20, 19:22, 20:13, 21:20, 21:24, 22:7, 22:12, 22:25, 23:23, 24:3, 24:4, 24:11, 24:21, 25:11, 26:11, 27:6, 27:12, 28:5, 30:20, 31:10, 31:22, 31:25, 32:12, 34:10, 34:18, 35:3, 36:8, 37:18, 38:12, 38:13, 38:22, 40:10, 41:13, 41:19, 41:22, 42:4, 43:6, 43:11, 44:13, 45:5, 50:3, 56:12, 58:6, 61:3, 63:3, 70:17, 73:14, 77:10, 77:13, 79:11, 79:13, 79:17, 80:15, 81:6, 82:6, 86:12, 88:6, 89:18, 89:19, 90:8, 92:24, 93:4, 94:4, 95:7, 95:18, 95:20, 97:14, 98:17, 98:24, 99:22,</p>	<p>100:14, 102:10, 102:13, 106:18, 109:3, 112:15, 114:16, 120:8, 121:9, 121:25, 122:12, 129:9, 130:16, 133:4, 138:10, 139:17, 140:11, 140:16, 142:12, 142:19, 146:3, 148:2, 149:24, 150:8, 151:6, 151:21, 152:20, 153:4, 153:21, 154:7, 154:9, 154:23, 155:17, 155:21, 156:16, 157:2, 157:7, 157:14, 157:18, 157:22, 158:3, 158:7, 158:19, 158:23, 160:4, 160:19, 161:15, 161:18, 161:22, 162:5, 168:6, 172:6, 186:12, 189:8, 189:17, 189:21, 199:22, 201:10, 201:25, 204:7, 205:2, 207:19, 209:16, 209:21, 210:3, 210:5, 210:6, 210:19, 211:19, 211:21, 214:2, 214:3, 218:14, 219:13, 222:16, 223:8, 223:14, 223:23, 223:25, 224:13, 224:14, 225:11, 225:19, 225:22, 232:4, 233:20, 234:7, 242:2, 243:17, 244:23, 247:21, 249:10, 249:20, 253:10, 255:18, 258:19, 258:22, 264:20, 267:7, 270:7, 270:18, 271:12, 271:23, 274:5, 277:21, 277:25, 280:2, 287:3, 288:11, 288:14, 289:25, 291:9, 291:25, 293:15, 295:18, 297:21, 297:24, 300:5, 301:9, 301:12, 301:17, 301:18, 303:16, 303:25, 304:11, 305:11, 305:18, 306:21, 308:3, 308:15, 317:12, 317:13</p> <p>Your^[1] - 10:25</p> <p>yours^[1] - 243:21</p> <p>yourself^[1] - 313:21</p>
Z			
<p>z^[1] - 6:7</p> <p>Z^[2] - 6:7, 10:17</p> <p>Z-H-E-N-G^[1] - 10:17</p> <p>Zach^[3] - 22:13, 22:15, 23:14</p> <p>ZACHARY^[2] - 3:8, 3:15</p> <p>Zachary^[1] - 5:23</p> <p>zero^[1] - 82:5</p> <p>Zheng^[11] - 5:8, 6:15, 6:19, 10:21, 68:4, 147:18, 204:18, 223:15, 237:21, 297:18,</p>			

<div>318:22</div> <div>ZHENG [6] - 1:8, 1:19, 2:6, 3:10, 320:15</div> <div>Zheng's [1] - 204:12</div> <div>zip [7] - 184:19, 184:25, 187:20, 206:6, 226:22, 238:13, 238:24</div> <div>zone [1] - 102:20</div> <div>ZUOPENG [7] - 1:9, 1:19, 2:6, 2:7, 3:11, 10:16, 320:15</div> <div>Zuopeng [3] - 5:8, 6:15, 318:22</div>
<div>°</div>
<div>° [4] - 319:6</div>